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U.S. GRAIN STANDARDS ACT AMENDMENTS OF 1975

A-1

HEARINGS

BEFORE THE

COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

H.R. 9467 and Similar Bills

SEPTEMBER 19, 22, 23, AND 24, 1975

Serial No. 94–AA

FEB 1976

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U.S. GRAIN STANDARDS ACT AMENDMENTS OF 1975

FRIDAY, SEPTEMBER 19, 1975

House of Representatives,
Committee on Agriculture,
Washington, D.C.

The committee met at 10:10 a.m., pursuant to notice, in room 1301, Longworth House Office Building, Hon. Thomas S. Foley (chairman) presiding.

Present: Representatives Poage, de la Garza, Bergland, Breckinridge, Richmond, Nolan, Weaver, Baldus, Krebs, Harkin, Hightower, Bedell, English, Fithian, D'Amours, Wampler, Sebelius, Findley, Thone, Symms, Madigan, Grassley, Hagedorn, and Moore.

Also present: Robert M. Bor, counsel; Hyde H. Murray, counsel; John E. Hogan, associate counsel; Steve Allen and Steve Pringle, staff consultants; L. T. Easley, press assistant; Glenda Temple and Susan Bell, staff assistants.

[The bill H.R. 9467 and the report from the U.S. Department of Agriculture follow:]

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94TH CONGRESS
1ST SESSION

H. R. 9467

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 1975

Mr. FOLEY (for himself and Mr. WAMPLER) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the United States Grain Standards Act to improve grain inspection and operations of official inspection agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2 of the United States Grain Standards Act (82
4 Stat. 761, 7 U.S.C. 74) is amended by adding at the end
5 thereof the following: "It is hereby found that all grain and
6 other articles, and transactions in grain, regulated under this
7 Act are either in interstate or foreign commerce or substan-
8 tially affect such commerce and that regulation thereof as
9 provided in this Act is necessary to prevent or eliminate bur-
10 dens upon such commerce and to effectively regulate such
11 commerce.".

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1 SEC. 2. Section 3 of said Act (82 Stat. 761, 7 U.S.C.
2 75) is amended by changing subsection (i) defining the
3 term "official inspection", subsection (j) defining the term
4 "official inspection personnel", and subsection (m) defining
5 the term "official inspection agency", to read, respectively,
6 as follows:

7 "(i) The term 'official inspection' means the determina-
8 tion (by original inspection, and when requested, reinspec-
9 tion and appeal inspection) and the certification, by official
10 inspection personnel, of the kind, class, quality, or condition
11 of grain, under standards provided for in this Act, or the
12 condition of vessels and other carriers or containers for trans-
13 porting or storing grain insofar as it may affect the quality
14 or condition of such grain; or, upon request of the interested
15 person applying for inspection, the quantity of sacks of grain,
16 or other facts relating to grain under other criteria approved
17 by the Secretary under this Act (the term 'officially in-
18 spected' shall be construed accordingly).

19 "(j) The term 'official inspection personnel' means per-
20 sons licensed or otherwise authorized by the Secretary pur-
21 suant to section 8 of this Act to perform all or specified
22 functions involved in official inspection, or in supervision of
23 official inspection, or in monitoring activities in foreign ports
24 with respect to grain officially inspected under this Act.

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1 "(m) The term 'official inspection agency' means any
2 State or local governmental agency, or any person, desig-
3 nated by the Secretary pursuant to subsection (c) of section
4 7 of this Act for the conduct of official inspection.".

5 SEC. 3. Section 7 of said Act (82 Stat. 763, 7 U.S.C.
6 79) is amended by changing subsections (e) and (f) and
7 adding new subsections (g), (h), and (i) to read, respec-
8 tively, as follows:

9 "(e) (1) the Secretary is authorized, upon application
10 and payment of the fee required by this section by any State
11 or local governmental agency, or any person, to designate
12 such agency or person as an official inspection agency for the
13 conduct of all or specified functions involved in official inspec-
14 tion at locations at which the Secretary determines official
15 inspection is needed, if:

16 "(A) the agency or person shows to the satisfaction
17 of the Secretary that such agency or person:

18 "(i) has adequate facilities and qualified person-
19 nel for the performance of such official inspection
20 functions;

21 "(ii) will conduct such training and provide
22 such supervision of its personnel as are necessary
23 to assure that they will provide official inspection in
24 accordance with this Act and the regulations and
25 instructions thereunder;

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1 "(iii) will not charge official inspection fees that
2 are discriminatory or unreasonable;
3 "(iv) does not have a conflict of interest pro-
4 hibited by section 11 of this Act;
5 "(v) will maintain complete and accurate
6 records of its organization, staffing, official inspec-
7 tions, and fiscal operations, and such other records
8 as the Secretary may require by regulation;
9 "(vi) will comply with all provisions of this
10 Act and the regulations and instructions thereunder;
11 "(vii) meets other criteria established in regula-
12 tions issued under this Act relating to official inspec-
13 tion agencies or the performance of official inspec-
14 tion; and
15 "(B) the Secretary determines that the applicant
16 is better able than any other applicant to provide official
17 inspection service.
18 "(2) Not more than one official inspection agency for
19 carrying out the provisions of this Act shall be operative at
20 one time for any geographic area as determined by the
21 Secretary to effectuate the objectives stated in section 2 of
22 this Act, but this subsection shall not be applicable to pre-
23 vent any inspection agency from operating in any area in
24 which it was operative on August 15, 1968. No State or
25 local governmental agency or person shall provide any of-

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1 ficial inspection for purposes of this Act except pursuant to
2 an unsuspended and unrevoked designation by the Secretary.
3 "(f) (1) Designations of official inspection agencies shall
4 terminate triennially and may be renewed in accordance with
5 the criteria and procedure prescribed in subsection (e).
6 "(2) Each official inspection agency shall pay to the
7 Secretary a designation fee calculated at an annual rate pre-
8 scribed by regulation of the Secretary based on the volume
9 of grain officially inspected by the agency in the preceding
10 year, and at a rate prescribed by regulation of the Secretary
11 based on the number of certificates issued for submitted
12 samples officially inspected by such agency in that year, and
13 if no such inspections were made or certificates were issued
14 in that year by such agency, then such fee shall be based on
15 the anticipated volume of grain to be officially inspected
16 and number of certificates to be issued for submitted samples
17 for the current year. The fee rates shall be established by
18 the Secretary at such levels as are necessary to cover the
19 Federal administrative and supervisory costs directly related
20 to the official inspection of grain by such agencies and the
21 designation and supervision of such agencies, except costs
22 incurred under paragraph (4) of this subsection and sections
23 9, 10, and 14 of this Act. The designation fee shall be pay-
24 able in quarterly installments beginning at the time of desig-
25 nation and shall be deposited in the fund provided for in

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1 subsection (h) of this section. Failure to pay the fee within
2 thirty days after it is due shall result in automatic termina-
3 tion of the designation. Such designation shall be reinstated
4 upon payment, within ten days after such termination, of the
5 fee currently due and any further expenses incurred by the
6 Department because of such termination.

7 "(3) A designation may be amended at any time upon
8 application by the official inspection agency if the Secretary
9 determines that the amendment will be consistent with the
10 provisions and objectives of this Act; and a designation will
11 be cancelled upon request by the official inspection agency
12 with ninety days written notice to the Secretary. A fee as
13 prescribed by regulations of the Secretary shall be paid by
14 the official inspection agency to the Secretary for each such
15 amendment, to cover the costs incurred by the Department
16 in connection therewith, and it shall be deposited in the fund
17 provided for in subsection (h) of this section.

18 "(4) The Secretary may revoke the designation of an
19 official inspection agency whenever, after opportunity for
20 hearing is afforded to the agency, the Secretary determines
21 that the agency has failed to meet one or more of the criteria
22 specified in subsection (c) of this section or the regulations
23 under this Act for the performance of official inspection
24 functions, or otherwise has not complied with any provision
25 of this Act or any regulation prescribed or instruction issued

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1 to such agency under this Act, or has been convicted of any
2 violation of other Federal law involving the handling or of-
3 ficial inspection of grain: *Provided*, That the Secretary may,
4 without first affording the official inspection agency an op-
5 portunity for a hearing, suspend any designation pending
6 final determination of the proceeding whenever the Secre-
7 tary has reason to believe there is cause for revocation of the
8 designation and considers such action to be in the best interest
9 of the official inspection system under this Act.

10 "(g) If the Secretary determines that official inspection
11 by an official inspection agency is not available on a regular
12 basis at any location where the Secretary determines such
13 inspection is needed to effectuate the objectives stated in sec-
14 tion 2 of this Act, and that no official inspection agency with-
15 in reasonable proximity to such location is willing to provide
16 and has or can acquire adequate personnel and facilities for
17 providing such service on an interim basis, official inspection
18 shall be provided by authorized employees of the Depart-
19 ment, and other persons licensed by the Secretary to perform
20 official inspection functions, as provided in section 8 of this
21 Act, until such time as the service can be provided on a regu-
22 lar basis by an official inspection agency. Official inspection
23 functions involved in appeal inspection of grain in the United
24 States and original, reinspection, or appeal inspection of
25 United States grain in Canada shall be performed by author-

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1 ized employees of the Department or licensed persons duly
2 authorized by the Secretary.
3 "(h) The Secretary shall, under such regulations as he
4 may prescribe, charge and collect reasonable inspection fees
5 to cover the estimated cost to the Department of Agriculture
6 incident to the performance of official inspection, except
7 when the inspection is performed by an official inspection
8 agency. The fees authorized by this subsection shall, as nearly
9 as practicable and after taking into consideration any proceeds
10 from the sale of samples, cover the costs of the Department
11 of Agriculture incident to the performance of official inspec-
12 tion services in the United States and on United States grain
13 in Canadian ports, including supervisory and administrative
14 costs directly related to the official inspection of grain. Such
15 fees, and the proceeds from the sale of samples obtained for
16 purposes of official inspection which become the property of
17 the United States, shall be deposited into a fund which shall
18 be available without fiscal year limitation for the expenses of
19 the Department of Agriculture incident to providing official
20 inspection services, including supervisory and administrative
21 costs as provided in this section.".
22 SEC. 4. Subsection (a) of section 8 of said Act (82 Stat.
23 764, 7. U.S.C. 84) is amended to read as follows:
24 "(a) The Secretary is authorized (1) to issue a license
25 to any individual upon presentation to him of satisfactory

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1 evidence that such individual is competent, and is employed
2 by an official inspection agency, to perform all or specified
3 original inspection or reinspection functions involved in
4 official inspection of grain in the United States; (2) to
5 authorize any competent employee of the Department of
6 Agriculture to (i) perform all or specified original inspec-
7 tion, reinspection, or appeal inspection functions involved
8 in official inspection of grain in the United States, or of
9 United States grain in Canadian ports, (ii) supervise the
10 official inspection of grain in the United States and of United
11 States grain in Canadian ports, and (iii) perform monitor-
12 ing-activities in foreign ports with respect to grain officially
13 inspected under this Act; (3) to contract with any person
14 to perform specified sampling and laboratory testing and to
15 license component persons to perform such functions pur-
16 suant to such contract; and (4) to contract with any com-
17 petent person for the performance of monitoring-activities
18 in foreign ports with respect to grain officially inspected
19 under this Act. No person shall perform any official inspec-
20 tion functions for purposes of this Act unless such person
21 holds an unsuspended and unrevoked license or authorization
22 from the Secretary under this Act.".
23 SEC. 5. Section 9 of said Act (82 Stat. 765, 7 U.S.C.
24 85), is amended by adding a new sentence at the end
25 thereof to read as follows: "The Secretary may summarily

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1 revoke any license whenever the licensee has been convicted
2 of any offense prohibited by section 13 of this Act, or con-
3 victed of any offense proscribed by title 18, United States
4 Code, with respect to performance of official duties under
5 this Act.".

6 SEC. 6. (a) Subsection (a) of section 10 of said Act
7 (82 Stat. 765, 7 U.S.C. 86) is amended by deleting the
8 term "has been convicted of any violation of section 13 of
9 this Act", and substituting the following: "has committed
10 any violation of section 13 of this Act or has been convicted
11 of any violation of other Federal law involving the handling
12 or official inspection of grain"; and by adding the following
13 at the end of said subsection: "In addition to, or in lieu of,
14 penalties provided under section 14 of this Act, the Secretary
15 may refuse to provide official inspection in accordance with
16 this section or assess against the respondent a civil penalty
17 not to exceed $50,000 for each such violation, or both, as
18 the Secretary determines is appropriate to effectuate the
19 objectives stated in section 2 of this Act.".

20 (b) Subsection (c) of section 10 of said Act is amended
21 to read as follows:

22 "(c) Before official inspection is refused to any person
23 or a civil penalty is assessed against any person under sub-
24 section (a), such person shall be afforded opportunity for a

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1 hearing in accordance with sections 554, 556, and 557 of
2 title 5, United States Code.".
3 (c) A new subsection (d) is added to section 10 of said
4 Act to read as follows:
5 "(d) Moneys received in payment of such civil penalties
6 shall be deposited in the general fund of the United States
7 Treasury. Upon any failure to pay the penalties assessed
8 under this section, the Secretary may request the Attorney
9 General to institute a civil action to collect the penalties in
10 the appropriate court identified in subsection (h) of section
11 17 of this Act for the jurisdiction in which the respondent is
12 found or resides or transacts business, and such court shall
13 have jurisdiction to hear and decide any such action.".
14 SEC. 7. Section 11 of said Act (82 Stat. 766, 7 U.S.C.
15 87) is amended by designating the provisions thereof as
16 subsection (a) and adding a new subsection (b) to read as
17 follows:
18 "(b) No official inspection agency, or any member,
19 officer, employee, or stockholder thereof, shall be employed
20 in or otherwise engaged in, or directly or indirectly have a
21 financial interest in, any business involving the transporta-
22 tion, storage, merchandising, or other handling of grain, or
23 the use of official inspection service.".
24 SEC. 8. (a) Section 12 of said Act (82 Stat. 766, 7
25 U.S.C. 87a) is amended by inserting after the term "official

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1 inspection agency" each time it appears in subsections (b)
2 and (c), the term "and every person licensed to perform
3 any official inspection function under this Act".

4 (b) Section 12 of said Act is further amended by add-
5 ing the following new subsection (d), at the end thereof:

6 "(d) Every person who, at any time, has obtained or
7 obtains official inspection shall, within the five-year period
8 thereafter, maintain complete and accurate records of pur-
9 chases, sales, transportation, storage, treating, cleaning, dry-
10 ing, blending, and other processing, and official inspection
11 of grain, and permit any authorized representative of the
12 Secretary, at all reasonable times, to have access to, and to
13 copy, such records and to have access to any grain elevator
14 or other facility used by such person for handling of grain.".

15 SEC. 9. Section 14 of said Act (82 Stat. 767, 7 U.S.C.
16 87c) is amended to read as follows:

17 "SEC. 14. (a) Any person who commits an offense
18 prohibited by section 13 (except paragraphs (a) (7), (a)
19 (8), and (b) (4)) shall be guilty of a misdemeanor and
20 shall, on conviction thereof, be subject to imprisonment for
21 not more than six months, or a fine of not more than $3,000,
22 or both such imprisonment and fine; but, for each subsequent
23 offense subject to this subsection, such person shall be subject
24 to imprisonment for not more than one year, or a fine of not
25 more than $5,000, or both such imprisonment and fine.

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1 "(b) Any person who commits any offense prohibited
2 by paragraph (a) (7), (a) (8), or (b) (4) of section 13 of
3 this Act shall be guilty of a felony and shall, on conviction
4 thereof, be subject to imprisonment for not more than two
5 years or a fine of not more than $10,000, or both.

6 "(c) Nothing in this Act shall be construed as requiring
7 the Secretary to report minor violations of this Act for
8 criminal prosecution when he believes that the public interest
9 will be adequately served by a suitable written notice of
10 warning, or to report any violation of this Act for prosecu-
11 tion when he believes that institution of a proceeding under
12 section 10 of this Act will obtain compliance with this Act
13 and he institutes such a proceeding.".

14 SEC. 10. Section 16 of said Act (82 Stat. 768, 7 U.S.C.
15 87c) is amended to read as follows: "The Secretary is
16 authorized to conduct such investigations; hold such hearings;
17 require such reports from any official inspection agency,
18 licensee or other person; require by regulation as a condition
19 for official inspection, among other things, the installation of
20 specified sampling and monitoring equipment in grain eleva-
21 tors, and approval of the condition of carriers and containers
22 for transporting or storing grain; and prescribe such other
23 rules, regulations, and instructions as he deems necessary to
24 effectuate the purposes or provisions of this Act. Whether any
25 certificate, other form, representation, designation, or other

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1 description is false, incorrect, or misleading within the mean-
2 ing of this Act shall be determined by tests made in accord-
3 ance with such procedures as the Secretary may adopt to
4 effectuate the objectives of this Act, if the relevant facts
5 are determinable by such tests. Proceedings under section 9
6 of this Act for refusal to renew, or for suspension or revoca-
7 tion of, a license, shall not, unless requested by the respond-
8 ent, be subject to the administrative procedure provisions
9 in sections 554, 556, and 557 of title 5, United States Code.".
10 SEC. 11. Section 17 of said Act (82 Stat. 768, 7 U.S.C.
11 87f), is amended by deleting from subsection (e) the term
12 "section 14" and substituting in lieu thereof the term "sub-
13 section (a) of section 14"; and by changing subsection (g)
14 to read as follows:
15 "(g) Any present or former officer or employee of the
16 Department of Agriculture or of any official inspection
17 agency, or any present or former licensee, who shall without
18 authority from the Secretary or a court order, make public
19 any information obtained under this Act shall be guilty of a
20 misdemeanor, and upon conviction thereof be subject to the
21 penalties set forth in subsection (a) of section 14 of this
22 Act.".
23 SEC. 12. Section 19 of said Act (82 Stat. 769, 7 U.S.C.
24 87h) is amended to read as follows:

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1 "SEC. 19. There are hereby authorized to be appro-
2 priated such sums as are necessary for monitoring activities
3 conducted in foreign ports with respect to grain officially
4 inspected under this Act; improvement of official standards
5 for grain inspection procedures and equipment, and other
6 activities authorized by section 4 of this Act; development
7 and issuance of rules, regulations, and instructions; and
8 other Federal administrative and supervisory costs not cov-
9 ered by fees assessed under section 7 of this Act. There are
10 further authorized to be appropriated such additional sums
11 as are necessary to provide initial capital for the fund, pro-
12 vided for in subsection (h) of section 7 of this Act, for
13 Federal administrative and supervisory costs directly re-
14 lated to the official inspection of grain, and for other admin-
15 istrative and supervisory costs directly related to official in-
16 spection agencies as provided in subsection (f) (2) of sec-
17 tion 7 of this Act, pending the accumulation of sufficient
18 amounts of fees provided for in this Act to cover such costs
19 on a current basis. Such additional sums appropriated for
20 initial costs to be incurred by the Department of Agricul-
21 ture shall be considered an advance from the Treasury of the
22 United States to be repayable over a period to be determined
23 by the Secretary in cooperation with the Secretary of the
24 Treasury, with interest to be determined by the Secretary

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1 of the Treasury in consideration of the average costs of
2 borrowing by the Treasury for the purposes of the United
3 States Government.".

4 SEC. 13. This Act shall become effective on the thirtieth
5 day after enactment hereof; and thereafter no agency or
6 person shall provide official inspection service in any area
7 without designation under the United States Grain Standards
8 Act, as amended hereby, except that any agency or person
9 then providing official inspection service in any area, who,
10 within the ninety-day period after enactment hereof, applies
11 for designation as an official inspection agency and pays an
12 initial quarterly fee, and thereafter pays quarterly fees when
13 due, as prescribed in section 7 of the United States Grain
14 Standards Act, as amended hereby, may continue to operate
15 in that area without designation as an official inspection
16 agency but shall be subject to all provisions of the United
17 States Grain Standards Act and regulations thereunder in
18 effect immediately prior to the effective date hereof, until
19 whichever of the following events occurs first:

20 (1) designation of such agency or person as an
21 official inspection agency is granted or denied by the
22 Secretary pursuant to said Act, as amended hereby; or

23 (2) such agency, or two or more members or em-
24 ployees thereof, have been or are convicted of a viola-
25 tion of any provision of the United States Grain Stand-

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1 ards Act in effect immediately prior to the effective
2 date hereof; or convicted of any offense proscribed
3 by any other Federal law involving the handling or
4 official inspection of grain; or
5 (3) the expiration of one year following the effec-
6 tive date hereof.

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DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

November 3, 1975

Honorable Thomas S. Foley
Chairman, Committee on Agriculture
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

At the hearing before your Committee on September 19, 1975, on H.R. 7442, H.R. 8347, H.R. 8764, and related legislation to amend the United States Grain Standards Act, question was raised concerning the conflict of interest provisions in the bill proposed by the Administration and introduced as H.R. 9467 and S. 2297. It was suggested by some members of the Committee that the provisions with respect to stock ownership as a bar to eligibility for designation as an official inspection agency were too restrictive.

We have given further consideration to the conflict of interest provisions in the light of all the comments at the hearing and would have no objection if the bills containing the Administration's proposal were changed as shown in the attached statement. The changes would relieve to a certain extent the restrictions relating to stockholders. Further, the changes would impose restrictions with respect to business or governmental entities related to official inspection agencies. The changes would also specifically impose corresponding restrictions on involvement with official inspection agency operations by businesses involving the merchandising or other handling of grain or use of the official inspection service, and entities related to such businesses.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Richard L. Feltner

RICHARD L. FELTNER
Assistant Secretary

Enclosures

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Proposed Changes in
H.R. 9467 and S. 2297

1. Substitute the following for section 7 of the bills:

"Sec. 7. Section 11 of said Act (82 Stat. 766, 7 U.S.C. 87) is amended by designating the provisions thereof as subsection (a) and adding new subsections (b) and (c) to read as follows:

'(b)(1) No official inspection agency, or any member, director, officer, or employee thereof, and no business or governmental entity related to any official inspection agency, shall be employed in or otherwise engaged in, or directly or indirectly have any stock or other financial interest in, any business involving the transportation, storage, merchandising, or other handling of grain, or the use of official inspection service; and no business or governmental entity conducting any such business, or any member, director, officer, or employee thereof, and no other business or governmental entity related to any such entity, shall operate or be employed by or directly or indirectly have any stock or other financial interest in, any official inspection agency. Further, no substantial stockholder in any incorporated official inspection agency shall be employed in or otherwise engaged in, or be a substantial stockholder in any corporation conducting, any such business, or directly or indirectly have any other kind of financial interest in any such business; and no substantial stockholder in any corporation conducting such a business shall operate or be employed by or be a substantial stockholder in, or directly or indirectly have any other kind of financial interest in, any official inspection agency.

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'(2) A substantial stockholder of a corporation shall be any person holding 2 percent or more, or 100 shares or more, of the voting stock of the corporation, whichever is the lesser interest. Any entity shall be considered to be related to another entity if it owns or controls, or is owned or controlled by, such other entity, or both entities are owned or controlled by another entity.

'(c) The provisions of this section shall not prevent an official inspection agency from engaging in the business of weighing grain.'"

2. Substitute the following for section 7(e)(1)(A)(iv) of the Act as set forth in section 3 of the bills: "(iv) and any related entities do not have any conflict of interest prohibited by section 11 of this Act;".

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Mr. POAGE [vice chairman]. The committee will come to order.

I have been advised that the chairman has been detained and he has asked that we proceed without him.

Our lead-off witness will be our colleague, Neal Smith.

STATEMENT OF HON. NEAL SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Mr. SMITH. I thank you very much, Mr. Chairman. I appreciate the opportunity to appear today to testify in behalf of H.R. 8764.

This legislation comes before the committee against the background of what can only be called a massive scandal. At last count, in the grain-exporting ports of New Orleans and Houston, four business firms and more than 50 persons have been indicted, convicted or have pled guilty in connection with such Federal crimes as bribery, misgrading of foreign grain shipments, short-weighing of grain, fraud, income tax evasion, conspiracy, and perjury.

Among those indicted is one of the largest grain-exporting firms; and among those indicted, convicted, or having pled guilty are persons licensed by the U.S. Department of Agriculture to inspect the handling and grading of grain under the U.S. Grain Standards Act.

The significance of this scandal, however, goes beyond the problem of criminal activity. It reaches to the core of the economic well-being of the United States. Grain exporting is now vital to the U.S. economy. Some 50 years ago, this country shipped abroad less than 7 million metric tons of grain. The estimated grain exports for 1975, soybeans included, total well above 80 million metric tons. The value of current grain exports is about $12 billion.

As Chairman Foley pointed out in announcing these hearings, grain exports are an important factor in our balance-of-trade situation and but for these exports, downward pressure on the dollar abroad and inflationary pressure at home would be much greater.

In other words, higher returns from grain exports help to reduce inflation.

For several years, complaints have been flowing in from foreign buyers about the low quality of U.S. grain. From December 1971 until July 1975, a total of 87 complaints were received by the Department of Agriculture involving 146 shiploads of grain. The United States simply will not be able to keep its foreign grain customers if they continue to receive misgraded, adulterated, or short-weighted grain shipments. Literally billions of dollars are at stake in this matter.

There is another major and compelling reason to reform the grain inspection program. While the current scandal has centered on gulf port cities, there has been a harmful ripple effect back into the heartland of America.

A grain elevator in central Iowa, for example, complained only recently that one of its grain shipments to Houston was short-weighted at the port by 3,500 bushels. The loss was about $8,000, only part of which was recovered. There have been many more complaints of this kind. Untold numbers of grain merchants will no longer ship to export points for fear their grain will be short-weighted.

This effectively denies producers and grain merchants an alternate market which at times may be the best market. This situation may

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result in export grain being shipped from a less accessible source and reduces the efficiency of our whole grain industry to the detriment of both producers and merchants.

Drafting legislation while criminal investigations are underway denies one the usual full input from competing sources become those sources may be involved in current investigations; however, there has been ample evidence of the need for the provisions encompassed in H.R. 8764. Under these adverse conditions, and after consulting Mr. Bergland and several other Members of Congress, I spent several weeks drafting H.R. 8764. It is a comprehensive bill and, after reflection several more weeks, I still believe it is a firm but reasonable response to the present situation. I would like to describe its main features in some detail.

I. INSPECTION PERSONNEL

Some will say that the current wave of indictments is a personnel problem and all that is needed is a change of personnel or more supervision. While the occasional deviant can be expected under any system, when there is widespread fraud the system itself must contain inherent weaknesses. Section 2 of H.R. 8764 would remove what I believe to be the principal weakness in the existing law. The existing system permits the Department to license as grain inspectors employees of private firms, local boards of trade, grain exchanges, or chambers of commerce.

These firms or organizations may have close financial ties to those exporting grain, so that, in effect, some of the parties with a financial interest in grain have been inspecting their own grain and affixing a Federal grade. The inspectors secure their salaries from people who may own an interest in the grain.

When grain shipments totaling billions of dollars are involved, the temptation for wrong-doing, especially in dealing with a foreign buyer, as the current scandal makes clear, is overwhelming.

Currently, there are 38 points designated by the Department of Agriculture for the inspection of export grain. About one-half are operated by organizations with close financial ties to grain exporters, and about one-half by State agencies. Under section 4, inspectors at all 38 of these export inspection points, plus any designated in the future for the inspection of export grain, would be Department of Agriculture personnel.

One of the most serious ramifications of the current scandal is the loss of confidence of foreign buyers in the quality of U.S. grain. Inspection of export grain by Federal inspectors, who are in no way beholden to the exporter, will help restore that confidence. It will also allow foreign buyers of U.S. grain to take their complaints directly to the governmental department responsible for inspecting it. They do not understand being told to argue with some State or private group about a Federal grade on a shipload of grain.

Under H.R. 8764, the Department of Agriculture, or a State agency approved by the Department, could inspect and grade domestic grain. It would be inspected and graded under Federal regulations, and the Department could contract with a State agency to perform the service with personnel who meet Federal qualifications under certain con-

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ditions. If State personnel failed to provide adequate service, the contract could be canceled immediately.

A buyer or seller who is dissatisfied with an individual inspection by State personnel could, by appealing within 24 hours, secure an inspection by a Federal inspector; and fees charged by State agencies must be the same as those charged for inspections by Federal personnel. State personnel could not be used to inspect grain at export points.

Proposals have been made to require that all grain inspection be done by Federal personnel. This idea may seem good in theory, but it overlooks a number of practical considerations. First of all, domestic grain is inspected only upon request. All grain exported from the United States, on the other hand, must be inspected.

So, to start with, there is a very basic difference between inspection of domestic and inspection of export grain. One is voluntary. The other is mandatory.

Second, a number of States already are inspecting grain weighing. About 20 percent of the some 650 grain-weighing points, mentioned later, are inspected by State officials. All 66 points in Kansas are under State inspection. In addition, 14 States have laws specifically making it unlawful to falsely weigh grain. The others ban short weighing of grain under general statutes. Except for the spot checks of licensed warehouses, there is now no Federal grain-weighing protection. But H.R. 8764 expands Federal protection to include weighing.

As the Federal grain inspection program is expanded to include grain weighing, provision should be made to take advantage of the personnel, talent, and experience in those States that have been regulating grain weighing.

Third, many States have been engaged in grain inspection and grading for years. Some had programs established before the U.S. Grain Standards Act was passed in 1916. At present, 22 States are conducting grain inspection under license from the Department of Agriculture. early 40 percent of the designated inspection points for domestic grain are operated by State agencies.

State agencies are also inspecting export grain at 16 locations, none of which are gulf ports. These 16 locations, under the provisions of H.R. 8764, would come under Federal inspection.

The best course of action, as far as domestic grain inspection is concerned, seems to me to be to permit the Federal department to contract with the existing State departments to perform domestic inspections under Federal standards. It would really be Federal inspection by State personnel who meet Federal standards and are subject to all Federal prohibitions sanctions, and qualifications.

It should be stressed that H.R. 8764, in section 15, makes clear that State agencies inspecting domestic grain must impose Federal standards. There are several safeguards in the bill to assure that they do so. The Department of Agriculture would make periodic supervisory inspections. If a State agency is not imposing Federal standards, its authority to inspect domestic grain would be suspended or revoked.

Also, any individual dissatisfied with a State-conducted inspection would have the right to appeal and have a new inspection made by Federal personnel. Under this system, although State personnel may be used, all inspectors would really be Federal inspectors.

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The administration's official proposal is to add another 175 supervisory personnel but continue private inspection companies.

That is the latest proposal. I have a copy of the working papers on the Department's original proposal and merely adding inspectors instead of eliminating the private inspectors was not the system they originally proposed before OMB turned it down.

There are now 800 inspectors and 200 supervisors. Adding 175 supervisors would make 375 supervisors for 800 inspectors or nearly one supervisor for each two inspectors. That would be a much more costly system because some inspectors are under conflicting pressures. It would be much more efficient to eliminate the conflict of interest situation for the private inspectors as provided in H.R. 8764.

The bill permits hiring those inspectors now working for private companies who meet the standards and pass the appropriate tests.

Section 20 sets standards for inspection personnel including a prohibition against owning a financial interest in a grain merchandising firm or engaging in any activity which the Secretary specifies by regulation as involving a conflict of interest. Also section 2 permits the Secretary to require job rotation as deemed appropriate to protect against the development of cozy relationships.

I believe these various provisions outlined above regarding personnel reach the core of our present problems and should be enacted at once.

II. GRAIN WEIGHING INCLUDED

Another major defect in the current grain inspection system is the lack of any authority to check against deceptive weighing. A large amount of the activities involved in the current scandal include the short weighing of grain. In some cases the schemes have been very elaborate and sophisticated involving several parties who divide the proceeds.

Section 3 would provide the Department of Agriculture with specific authority to assure honest weighing of grain. It would make the false weighing of grain a Federal crime. It would also require that all scales used for weighing grain commercially automatically stamp the correct weight on a receipt or ticket, with copies going to the buyer and seller. It would provide the same protection for international and interstate shipments of grain which some States already provide for local transactions.

According to the best available information, there are currently about 650 rail-transportation points in 30 States where grain weighing is inspected on a continuous basis or spot-checked. The inspection is done either by State officials or by employees or organizations which may have close financial ties to the grain trade. At New Orleans and Houston, the export points are under inspection on a daily spot-check basis by local boards of trade.

Under H.R. 8764, the weighing of all export grain would be inspected by Department of Agriculture officials. In the case of domestic grain, weighing inspection would be conducted by Department of Agriculture officials or by State officials imposing Federal standards. The bill contemplates adoption of whatever rules and regulations and inspections are appropriate to assure honest weights. It is vital that

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any effective grain inspection bill include provisions to assure honest weight.

III. FUNDING

Section 5 provides that the cost of grain inspection, including the cost of Federal supervisory inspection of participating State agencies, be paid by uniform fees set by the Department of Agriculture. If a State agency conducts inspection, it will collect the same fee as set by the Department.

The bill contemplates that fees would be paid by the person requesting inspection, in the case of domestic grain, and by the exporter, in the case of export grain. This is the procedure currently followed.

Inasmuch as private inspection companies have been able to make a considerable profit on fees, and inasmuch as the new system would be nonprofit, the fees charged should be no more, and perhaps even less, than those presently charged.

It is important to remember that the grain inspection program is far less government regulation than it is a service to the trade. The original U.S. Grain Standards Act was passed in 1916 to eliminate the confusion resulting from the use of many different grain insepction organizations without national coordination or supervision. While grain merchandising practices have changed greatly since 1916, the grain trade would have great difficulty operating without the uniformity established by the grain inspection program. It is only fair, therefore, that those who profit from the program pay for it.

H.R. 8764 would make two changes in the way the program is funded. First, it would provide that supervisory inspection, as well as direct inspection, be financed through fees collected from the trade. Second, it would require that the Department of Agriculture set a uniform inspection fee to cover the cost of the program.

At the present time, the Department does not have a uniform fee schedule. The Department's regulations merely provide that a licensed inspection agency collect fees which are "nondiscriminatory and reasonable" and that the fees not be used to finance any operation "not related" to inspection. Little, if any, effort has been made to audit the fee-collection activities of the licensed agencies.

The Department currently collects an estimated $29 million in inspection fees, fees charged by the States total $9 million, and fees collected by private agencies total $20 million. These are only estimates. The Department really does not know what the private agencies are collecting. The Department also takes in another $2 million in fees for inspection of Canadian ports—there is really one port, Vancouver—and for appeal inspections. The cost of Federal supervisory inspection, such as it is, is financed now by appropriations. The fiscal year 1975 appropriation was about $3.4 million dollars. And so, Mr. Chairman, under H.R. 8764 the net cost to the Government would be less than it is now, and it would be less than it would be under either one of the administration's proposals.

IV. ADULTERATING GRAIN PROHIBITED

Section 12 would make it illegal to adulterate grain with foreign material, such as floor sweepings, trash or any kind of dirt.

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V. FOREIGN MATERIAL DISCOURAGED

As a further check against this abuse, section 16 provides that all foreign material be considered a dockage item and excluded from the next weight of the shipment for purposes of buying and selling.

The current Department of Agriculture regulations allow the addition of up to 5 percent foreign material in oats, barley, wheat, and soybean shipments; up to 6 percent in rye shipments, and up to 7 percent in corn shipments. Especially in periods when grain prices are higher, these wide tolerances are an open inducement to adulterate grain and may make it profitable to add foreign material even when it results in a lower grade. In fact, one of the major complaints of foreign buyers of U.S. grain is that much of it is adulterated.

This provision does not prohibit blending as the bill states specifically and clearly on page 11, but adulterating grain has become a serious problem and urgently needs correction.

VI. SANCTIONS TO SECURE COMPLIANCE

Sections 7 and 8 of H.R. 8764 would establish a system under which those in the regular business of buying and selling grain would be required to register with the Department of Agriculture. The purpose of these provisions is primarily to identify those involved and assure compliance with the law, but they would also provide disclosure of certain needed information.

Registration would be required of any business regularly engaged in the buying for sale of grain, or in the randling, weighing, or transporting of grain which they own for sale. The bill exempts those dealing in grain only incidentally or occasionally, firms transporting for hire grain they do not own and producers, feeders, and processors of grain not for sale as grain. The Department would have the authority to revoke or suspend a firm's certificate of registration if it violated the law or the regulations. That is the sanction that helps to secure compliance.

The prohibited acts in the current U.S. Grain Standards Act are treated only as misdemeanors. Stiffer penalties are clearly needed. Section 13 applies penalties for interference with inspection personnel which are similar to those applied under the Wholesome Meat Act for interference with Federal meat inspection personnel.

VII. WHEAT PROTEIN CONTENT

Section 19 would require the Department of Agriculture to issue regulations governing the testing of the protein content of wheat, and require the Department, or a designated State agency, to make protein content tests upon request. When the Grain Standards Act was amended in 1968, the Senate committee report plainly stated that protein tests would be among the additional inspection services available. In spite of this, the Department of Agriculture claims it lacks the authority to conduct wheat protein content tests.

An accurate determination of protein content is needed if wheat is to be bought and sold according to its true value. Sharp disputes have developed as to the honesty of protein content tests. This provision of

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the bill will resolve this problem and specifically require of the Department what Congress and the trade both have for several years agreed needs to be done.

VIII. MODERNIZING GRAIN STANDARDS

Section 20 of the bill requires the Secretary of Agriculture to promulgate rules and regulations within 180 days which would establish or revise grades for each kind and class of grain in such a way that producers, handlers and transporters of grain will be encouraged and rewarded for the production conservation, and delivery of high quality grain.

Partly due to changes in the industry and partly due to inaction in making changes in the grain standards, the grain industry has been discouraged instead of encouraged to deliver the highest quality of grain to the ultimate buyer.

Through the State agricultural colleges and other resources, we have spent money and effort to show how new equipment and varieties would result in the harvesting and delivery of a superior product. However, the grain standards have not sufficiently rewarded those who made the extra investments or changes.

Farmers delivering soybeans with less than 13 percent moisture usually receive no increase in price even though they are delivering a greater amount of dry matter which converts into oil and meal. Tolerances for damaged grain have been so slight that there has been little or no incentive to make an all out effort to reduce such damage. Genetic differences found in corn inbreds can contribute greatly to the physical quality of the corn hybird, but financial rewards for delivering corn which retains such quality has been so little that these superior physical qualities are not considered by producers when they select their seed corn.

Both delays in planting and premature harvesting can result in a product which is more subject to physical damage, but the financial rewards for producing a material less susceptible to breakage is too little under existing grain standards to discourage premature harvesting and delayed plantings. While moisture content can effect the possibility of physical damage, in most cases it is not a valid measure of the value of the dry matter in the grain; but, existing standards have made moisture content an absolute factor in determining grade.

I could give a number of additional examples, but perhaps this is enough to indicate that a thorough review of the grain standards needs to be made and that new standards need to be developed with a view toward accomplishing the overall objectives and guidelines outlined in section 20.

Even if we were able to determine exactly what the new standards should be today, they may need to be changed again in the next 2 or 3 years. It is for this reason that instead of attempting to legislate these new standards in section 20, the Department is directed to proceed under administrative procedures to develop the appropriate rules and regulations changing these grades to more appropriately provide measures of value for grain on our domestic market.

In view of the tremendous increase in, and dependence upon, exports in this country, I believe our grain standards should also seek

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to provide grades which are competitive for reputation for quality in the world market. When grain standards were set in the past, they have been primarily concerned with needs in the domestic market. I have considered the possibility that we should have a separate grade for export grain; however, I do not believe this is really practical or the most efficient way to proceed. Neither the farmer nor the elevator usually knows when the grain is delivered whether it is for export or domestic use. To completely isolate grain for export from grain for domestic use, would cause greater inefficient use of our transportation and marketing system.

Therefore, instead of trying to develop a grade which is equal in quality to that of the highest quality in some other country, I think it is better that we develop some standards which assure that there will be large quantities of U.S. grain available which is as competitive as reasonably possible in reputation on the world market.

In setting these standards, the standard cannot be so high that, as a practical matter, the grain will not be available in substantial quantities; but, it should not be so low that most of the grain available is not competitive in reputation for quality in the world market.

I think it is extremely important that the Department proceed at once to change the grade standards as directed in section 20, and that the Department be given the authority and guidelines contained in that section, so that our grain can attain a better reputation in the world market, and so that those producers, handlers, and transporters involved will be rewarded for the production, conservation, upgrading and delivery of high quality grain.

CONCLUSION

The committee is to be commended for holding these hearings. As the members are well aware, this legislation deals with complex and highly technical matters. But the basic problem is simple, and that is to provide assurance, both here and abroad, that U.S. grain will enjoy a good and competitive reputation and that there will be honest weighing and grading under uniform standards.

I believe H.R. 8764 will provide that assurance. It is of vital importance to domsetic producers, processors, merchandisers, and consumers, and is also important to our national financial well-being.

I urge the committee to act favorably on this legislation as soon as possible.

I offer a summary of the bill as follows:

Section 1. Short title of bill.

Section 2. Repeals provision allowing inspection by federally licensed private firms and substitutes a government inspection service. Allows USDA to hire as inspectors qualified personnel of licensed inspection firms. Allows Secretary of Agriculture to require rotation of state inspection personnel within a state, and permits rotation of Federal inspection personnel.

Section 3. Provides USDA with authority to regulate weighing of grain. Makes it a felony to falsely weigh grain. Requires use of an automatic ticket stamping machine for weighing grain.

Section 4. Requires that grain for export be inspected only by Federal personnel.

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Section 5. Provides that inspection costs be paid through fees collected from those whose grain is inspected.

Section 6. Repeals provision limiting each city to one inspection facility.

Section 7. Requires registration with USDA by persons selling, handling, weighing or transporting grain, but exempts those doing so only occasionally, farmers, persons transporting grain for hire, livestock feeders and grain processors. Makes it a misdemeanor not to register if required. Requires disclosure of certain information by those registering, including the true ownership and list of officers and places where substantial business operations are conducted.

Section 8. Provides that the Secretary of Agriculture may revoke or suspend registration of a person violating the law, thus preventing them from doing business. Requires the automatic suspension for at least 6 months of a person violating the law more than once.

Section 9. Clarified existing law regarding refusal of official inspection.

Section 10. Bans conflict-of-interest by grain inspectors. Gives Secretary of Agriculture authority to test competence of official inspection personnel.

Section 11. Allows inspection of records of those required to register.

Section 12. Makes it a felony to knowingly add foreign material to grain.

Section 13. Increases existing criminal penalties to felonies. Provides stiffer penalty for using deadly or dangerous weapon to assault grain inspectors. Makes it a Federal crime to murder or commit manslaughter against Federal or State inspectors. Requires mandatory jain sentence for persons who bribe or attempt to bribe inspectors and for inspectors who accept bribes. Makes it a Federal crime to assault or bribe State inspectors.

Section 14. Routine authorization of any needed appropriations.

Section 15. Provides that the Secretary of Agriculture may designate a State agency to carry out the administration of the Federal inspection in a State. This State agency then may inspect grain in the State, except grain for export, but it must maintain Federal standards. The right of appeal or application for reinspection is assured.

Section 16. Requires Secretary of Agriculture to issue regulation making foreign material in grain a dockage item.

Section 17. Allows USDA to purchase equipment from licensed private inspection firms.

Section 18. Prohibits location of inspection headquarters in a building doing grain business in order to minimize outside pressure on inspectors.

Section 19. Requires the USDA inspection service or the State agency to test protein content of wheat.

Section 20. Requires USDA to issue regulations in 180 days for improved grain standards.

Section 21. Routine conforming amendments.

Section 22. Makes law effective within 180 days.

Mr. Chairman, I found that some basic information on the subject was not too easy to acquire. The Department of Agriculture did not have some of the information needed. I have a list, for example, of the

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States with laws specifically prohibiting short-weighting of grain, and other information which I will make available to the staff and which you can include in the record if you deem it appropriate.

Mr. POAGE. Without objection that will be inserted.

[The material referred to follows:]

STATES WITH LAWS SPECIFICALLY PROHIBITING SHORT WEIGHTING GRAIN

Alabama	Minnesota
Connecticut	Mississippi
Idaho	Missouri
Illinois	Montana
Indiana	North Dakota
Iowa	Oregon
Kansas	Wisconsin

Source: Library of Congress, American Law Division.

States where Government agencies inspect or spotcheck grain weighing at rail points

State:	*Number of points*
Kansas	66
Missouri	19
Minnesota	19
Oregon	14
Washington	8
Wisconsin	7
Alabama	3
Mississippi	3
California	1
Pennsylvania	1
Virginia	1

Source: Association of American Railroads Bulletin, dated Jan. 1, 1975.

USDA GRAIN INSPECTION POINTS

State	Number of agencies and type			State	Number of agencies and type		
	State [1]	Independent [2]	Trade [3]		State [1]	Independent [2]	Trade [3]
Alabama	5			Mississippi	4	1	
Arizona		1		Missouri	5		
Arkansas		1	1	Nebraska		2	3
California	7		2	New York		1	2
Colorado			1	North Carolina	2	5	
Connecticut	1			Ohio		5	1
Delaware	1			Oklahoma		3	
Florida	3			Oregon	3		
Georgia	3			Pennsylvania			1
Idaho		1		South Carolina	2		
Illinois	4	12	3	South Dakota		1	
Indiana		5	2	Tennessee		1	1
Iowa		6	7	Texas		4	10
Kansas	11			Utah			1
Kentucky		2	1	Virginia	5		
Louisiana	5		7	Washington	8		
Maine	2			West Virginia	1		
Maryland	5		1	Wisconsin	1		1
Michigan		1	2	Wyoming	1		
Minnesota	10						

[1] Inspection conducted by State agency.
[2] Inspection conducted by private firm.
[3] Inspection conducted by local board of trade, grain exchange, or chamber of commerce.

Source: U.S. Department of Agriculture, August 1975.

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VOLUME OF INSPECTION OF DOMESTIC GRAIN

	Number of inspections (millions)	Volume of grain inspected (billions of bushels)
Fiscal year:		
1969	2.5	4.6
1970	2.9	5.4
1971	2.9	5.5
1972	2.7	5.0
1973	3.7	6.0
1974	4.1	7.0
1975	3.3	6.5

Note: Number of inspections=Number of certificates issued by official inspection agencies when inspection was made upon request.

Source: U.S. Department of Agriculture, August 1975.

VOLUME OF INSPECTION OF EXPORT GRAIN

	Number of inspections	Volume of grain inspected (billions of bushels)
Fiscal year:		
1969	4,611	1.4
1970	5,238	1.6
1971	5,870	1.8
1972	4,992	1.8
1973	7,378	3.0
1974	8,371	3.5
1975	5,988	2.7

Note: Number of inspections=Number of certificates issued to foreign consignee for single shipment of grain.

Source: U.S. Department of Agriculture, August 1975.

OFFICIAL INSPECTION POINTS FOR EXPORT GRAIN

Mobile, Ala.
Long Beach, Calif.
San Francisco, Calif.
Stockton, Calif.
West Sacramento, Calif.
Chicago, Ill.
Davenport, Iowa
Ama, La.
Destrehan, La. (2 points)
Myrtle Grove, La. (2 points)
New Orleans, La.
Port Allen, La.
Reserve, La.
Westwego, La.
Baltimore, Md.
Duluth, Minn.
Pascagoula, Miss.
Albany, N.Y.
Buffalo, N.Y.
Toledo, Ohio
Portland, Oreg.
Philadelphia, Pa.
North Charleston, S.C.
Memphis, Tenn.
Beaumont, Tex.
Corpus Christi, Tex.
Galveston, Tex.
Houston, Tex.
Port Arthur, Tex.
Norfolk, Va.
Kalama, Wash.
Longview, Wash.
Seattle, Wash.
Tacoma, Wash.
Vancouver, B.C.[1]
Superior, Wis.

[1] Inspection conducted by Washington Department of Agriculture under license by USDA.

Source: U.S. Department of Agriculture, August 1975.

Mr. POAGE. Thank you very much, Mr. Smith, for your comprehensive statement.

Mr. Smith usually comes before us with a well-thought-out program of what he thinks should be done; whether you agree with him or not, he gives reasons for his proposals.

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I notice that your colleague, Mr. Mezvinsky, is here this morning. I also see that Mr. Burlison is here. We would like to hear from them and then possibly question all of you together.

Mr. Mezvinsky, we are delighted to have you with us here this morning. Although Mr. Mezvinsky has not been a member as long as Mr. Smith, he has shown a great deal of interest in this same subject of grain production which is so vital to the Central United States, and we would be delighted to hear from him.

Mr. MEZVINSKY. It is true that I have not been here as long as Congressman Smith. In fact, my introduction to the Congress came as an aide to Congressman Smith where I got my background in agriculture, and became familiar with the whole role of the Federal Government in inspection.

It started with meat inspection, and now it is with grain. That is really what I want to talk about today.

I would like to have my statement submitted for the record in full.

Mr. POAGE. Without objection, that will be inserted in the record.

[The prepared statement of Hon. Edward Mezvinsky follows:]

STATEMENT OF HON. EDWARD MEZVINSKY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Mr. Chairman, I appreciate the opportunity to be here today. I am especially pleased that the committee has decided to hold comprehensive hearings on the several bills to reform grain inspection, including H.R. 7442 which I introduced along with eighteen cosponsors. I firmly believe that we need a bill before the House as soon as possible. We have known about the flaws in the present grain inspection system since early Spring. Each month since then there have been new indictments and sensational revelations. Unfortunately, it is clear that the full extent of corruption has not yet surfaced despite over fifty indictments of inspectors and high grain company officials. It is not necessary to reiterate the details of the grain scandal. They are fresh in our minds. But I would like to underscore how vital secure grain export markets are to the American economy as well as to our farmers.

Soaring energy costs and our dependence on Arab imports give many people of the impression that our balance of trade is suffering badly and is another weighty drag on our economy. But that is not so. Our balance of trade is in excellent shape—but only as a result of our agriculture exports, of which grain is far and above the most important component. We cannot presume that these markets, although still strong, are fixed and immutable. They were developed laboriously over a period of years, and have already been weakened. Some important foreign customers, dissatisfied with American grain quality, have already ceased coming first to the U.S. for their grain.

I believe the Federal Government must take on the full responsibility for grain inspection. Enforcing grain standards is vitally important to our farmers and to our economy. But it would be a serious mistake to assume that we can eradicate the problems that led to the present scandal through the cosmetic readjustments advocated by the OMB and the USDA. Instead of giving lip service to beefing up supervision—the essence of the USDA bill—we need a fundamental overhaul of the structure of the grain inspection service. It is this proposal which I would like to explore with you today.

Both Senator Clark and Representative Smith have included, in their respective bills, a long overdue tightening of grain standards. Changes are sorely needed and I strongly support those proposals. But, as Mr. Smith and Mr. Clark recognize, setting more stringent grain standards in the hope of obtaining uniformly high quality grain in the marketplace to match the superior grain from our farms cannot be achieved without uniform enforcement of those standards. This, in my judgment, necessitates a federal system of grain inspection.

It is clear that under the present system, private inspection is inadequate. An inherent conflict of interest situation exists when an inspector is employed by a private inspection agency with virtually unavoidable ties to the grain and

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shipping firms. As long as that conflict exists we cannot assume that the corruption will be isolated in New Orleans and Houston. As a precaution against future grain scandals in places presently unscathed by the corruption, we need legislation which minimizes the possibility of breeding relationships conducive to self interest over public interest. The clause in the USDA bill prohibiting conflicts of interest between grain firms and private agencies is so weak on this point that we have to disregard it as meaningless. As we know, USDA did not originally favor retaining the private agencies, but had its bill rewritten by the Office of Management and Budget, which saw another opportunity to decentralize and economize without regard for the real needs.

The problems with state grain inspection are more subtle, but they are serious enough to preclude state involvement in grain inspection.

At the crux of the problem is the question: What happens if a state is not meeting the standards set forth in the Act? It is informally acknowledged by people intimate with grain inspection in this country that some states do a much better job than others and that, conversely, others do a much worse job. On the whole, I think we can expect state inspection systems to be weaker than a federal system. An instructive example can be taken from the meat inspection program. A 1970 GAO report on meat inspection indicates that sanitation in those state-inspected plants overseen by federal supervisors (the Talmadge-Aiken plants) was significantly inferior to that in federally inspected plants. I do not mean to speculate about the reasons for this, but one certainly would want to examine the influence of intra-state politics and the "political" relationship between the USDA and certain states.

Past history should alert us to the blinders the USDA dons when dealing with the states and particularly with state Departments of Agriculture. After the Wholesome Meat Act was passed in 1967, the USDA repeatedly ignored time schedules set by Congress for certifying states as adequate to conduct the inspection. Most recently, bowing to pressure from state Departments of Agriculture, the USDA has been attempting to undermine the Act and give meat inspection back to the states through an ingenious misreading of its authority under the Talmadge-Aiken Act.

Suppose USDA is given authority to step in and take over inadequate grain inspection. Could we expect it to do so? I fear we have to assume that the USDA would bend over backwards rather than discipline or disband a state system. Let me give you an example. One state is apparently in violation of a regulation under the present Grain Standards Act which prohibits an inspection agency from owning and operating grain warehouses (Sec. 26. 96 (d)). The USDA has done nothing to enforce that regulation and has allowed the conflict of interest situation to continue.

If state inspections are allowed, Congress will have the virtual assurance that it will be underwriting a state system for most, if not all, states. In twenty states, grain inspection agencies now are run solely by the states. Five states, including Louisiana, have both a state and private inspection system; and eighteen states have an all private system. With private agencies gone, most states would want to take over the domestic inspections because grain inspection on a fee system is often a lucrative business. Can we afford to leave this weakness in our grain inspection system? If we are seeking to write a new act that will make structural changes offering the greatest safeguards against future problems, we have to support the uniformity and greater accountability that a fully federal system offers.

We cannot totally eliminate corruption by legislation. That is not my illusion. What we can do, however, is attempt to insulate the grain inspector from conflicts of interest by providing a buffer. This can be achieved in several ways: a USDA training program that emphasizes public service as well as competence in inspecting grain; more financial security for inspectors; and frequent rotation of inspectors to new locations in order to avoid overfamiliarity with elevator and shipping personnel.

Beyond these practical considerations, I think the convincing argument for having a federal grain inspection system is that it will reflect our government's commitment to the quality of grain exports. Passivity has seriously jeopardized our grain exports. I believe that our government must take the responsibility for guaranteeing that importers get what they pay for when they buy American grain. We owe this to our farmers who are producing the highest quality grain in the world. We owe it to our economy which depends so heavily upon our grain exports to achieve a favorable balance of trade.

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Mr. POAGE. Thank you very much. We are glad to have you with us, Mr. Mezvinsky and hope you can stay for the questioning period. We are glad to have your views on this.

We now have one of our former colleagues on the committee who worked with us for a number of years, and then went off to burden us with taxes, but he still is interested in agriculture.

STATEMENT OF HON. BILL D. BURLISON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mr. BURLISON. Thank you, Mr. Chairman. Following such able colleagues as my friends from Iowa, does not leave very much for me to say, so I will keep my remarks very brief and allow maximum time for questions from the committee.

These hearings have been precipitated by irregular activities with respect to the exportation of grain. I would hope, however, that the committee in its hearings and deliberations would at the same time focus in on the concerns that many of us have about the grading and inspection of grain on the domestic market as well.

My bill, H.R. 9546, perhaps has a feature or two about it unique among the various proposals that are before you.

Let me just very briefly outline a few points in my bill and express my concern about the practices these provisions are designed to remedy.

In the first place, official inspectors under my bill will be employees of the Government. There is just too much potential for conflicts of interest and other improprieties if such employees do not have total allegiance to the Government. So at least on that point I am in full accord with my predecessor that has just testified.

Another feature of my proposal, and one which I believe is not found in any of the other bills being considered, permits the farmer to obtain an official inspection and grade free of charge.

Mr. Chairman, I see too much evidence of a cozy relationship between the four or five large grain companies that buy most of the grain. Allied with this concern is my view that grain companies have too great a potential for pressuring and influencing the individual grain producer to not request an official inspection, and I am referring of course to the producers as they take their grain to market.

I believe that permitting the farmer to utilize this service free of charge will go a long way toward reducing the influence of the large grain companies on the individual farmer's decision with respect to obtaining official inspections and selling on official inspection.

There are serious shortcomings in our present grain inspection and grading system with respect to both export and domestic sales. The committee is due high commendation for calling these hearings. The American people are looking to this committee to report out effective and imaginative legislation. I know that you will meet that challenge.

Mr. POAGE. We are delighted to have had you, Mr. Burlison. We hope that you can stay with us for the questioning period.

We will now begin the questioning period.

I recognize Mr. Hightower.

Mr. HIGHTOWER. Thank you very much.

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Mr. Mezvinsky, I am concerned with a couple of points in your justification for a change in the inspection. First of all you said in alluding to the scandals that this might be the tip of the iceberg, and that it might spread. This bothers me some; that is, that we would say that we were going to change the system of inspection because we find that there have been some dishonest dealings in some places.

There have been some bad scandals, but that does not necessarily mean that they are going to spread and I do not think that it necessarily means that it has anything to do with the enforcement. It is just like saying that, because there are violations of the law and the police somewhere do not seem to be doing a good job, that we ought to have a Federal system of policing.

I just do not understand the connection there. Maybe I am not well enough informed as to the specific scandals in order to say that it has something to do with our present inspection system.

Is that your contention? That is, because we do have a private inspection and the kind of inspection that we have, that this has resulted in the scandals in Houston and Louisiana and the others?

Mr. MEZVINSKY. I do not think there is a straight simple answer. Let me just say that in all of the approaches which Congressmen Smith and Burlison, and Senator Clark and Senator Humphrey have called for the change is away from a private system. We have had indictments charging an inspector with taking $5,000 bribes to verify that the ship is clean. He is paid by a board of trade which represents the shipping company. So that is an inherent problem which is a conflict of interest.

Mr. HIGHTOWER. Is that not a violation of the law?

Mr. MEZVINSKY. The bribes are, but the problem is how can we avoid the kind of situation which results in the conflict of interest. Should we have an inspector paid for by those that he is regulating? That is like having a policeman paid for by those who are violating the law. I do not think our system can restore credibility that way. That is the basic thrust of the change I advocate, and I am concerned that the tip of the iceberg is seeing the inspectors indicted. Now what is going to happen, we know, is that they are going to go up and begin indicting and bringing charges against those who are paying the bribes.

Mr. HIGHTOWER. I would certainly hope that they would not only indict the ones that are paying the bribes, as well as the inspectors, but I am not sure that a Federal inspector could not be bribed or would not, under some circumstances, be bribed by the same people.

Mr. MEZVINSKY. That is a possibility, but at least in this case we avoid the situation of the regulator being paid by the regulatee. You cannot preclude bribery of inspectors. I do not think any piece of legislation can, but we are trying to avoid it. We do it with food. We do it with the FDA. We are doing it with the meat inspection.

Why should we not try the same standards with grain? That is the thrust.

Mr. HIGHTOWER. But, when we are talking about whether or not we have State inspectors or Federal inspectors, and if you are talking about bribery and the susceptibility to bribery, then that should be removed.

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If you are dealing with dishonesty, whether it is on the Federal, State, or whatever level, it is the same thing.

It seems to me like this. I have dealt with private officiousness, I have dealt with State officiousness, and I have dealt with Federal officiousness. And, by all standards, Federal officiousness is much worse than private and State.

If I were out talking to my people—and I have talked to some in my district about this—they much prefer the present situation over some kind of Federal system. They would not want to move in with the Feds. The Feds tend to scare, and if we are dealing with officious people who come in and show a badge, then it tends to scare them.

The folks at home really prefer to do it at a lower level.

Mr. MEZVINSKY. I am just saying that we did a survey in my area where there has been a lot of focus and attention on this, and we put it in that same way. That is, choose private, State, or Federal and the overwhelming support was to support a uniform change with Federal inspection.

The CHAIRMAN. Mr. Thone.

Mr. THONE. Thank you, Mr. Chairman. In many respects I would like to associate myself with the remarks of Mr. Hightower.

Frankly, I think complete federalization is the worst thing we can do here.

Mr. Mezvinsky, I do not know where you took that poll. I do not know who took it for you, but I do not think your citizens are different from the citizens in Nebraska and frankly they want the Government off their back. Nine out of ten that I know about want that. I agree that there are serious deficiencies in the present grain inspection and grading system and obviously something has to be done.

I am very impressed, Mr. Smith, with the quality and depth of the presentation which you have made which, as the chairman pointed out, is typical of your work.

What disturbs me, however, is that, as I read it and as I read some of the Department's testimony, the tab on your legislation would be about $40 million, as I understand it.

It would add 2,600 employees, 1,400 Federal, and 1,200 State.

Mr. Smith, is this necessary?

Mr. SMITH. The net cost to the Government under my bill would be less than under the administration's proposal. As is the case now, those who ask for an inspection pay for it. The fees pay for most of the program cost. That would continue.

Mr. THONE. I understand.

Mr. SMITH. Actually, then, I think that under the system I am proposing, the total cost would be less than the administration's approach, because they are proposing to put on 175 more supervisors, and that is nonproductive labor.

Mr. THONE. I sure agree that there ought to be more Federal supervisors to make the present system work.

Mr. SMITH. They are putting the 175 supervisors on so that they can watch the private inspectors. If the program does not have people inspecting who are beholden to those for whom they are inspecting, then there would be no need to have the extra inspectors.

So, they are proposing what amounts to one supervisor for two inspectors. You should not have to load a system down that heavily with supervision.

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And, you do not have to. You could just eliminate the private inspectors.

So, if you will stay with the State and Federal inspectors, none of whom are permitted to secure any remuneration of any kind from those they are inspecting, then you do not have to load the system down. So the total cost to the Government and the total cost to the industry both would be less under my bill than the administration's bill.

Mr. THONE. I agree with Mr. Hightower that by increasing Federal supervision you can probably solve much of the problem without using the sledgehammer approach of federalization in an area here that does not need federalization, and certainly should not have it, as I see it.

As I understand it, the tab for federalization would run up to $61 or $62 million. It would require 3,200 employees.

Mr. SMITH. They are paying that now in fees. And the private agencies are making a profit. The people who are involved are the buyer and the seller. They voluntarily request somebody to make an inspection, and all we are saying is that we will provide a service. If someone wants an inspection, we should provide you with an impartial inspector who is not beholden to either party, instead of the way it is now. The way it is now, if the seller requests an inspector, in many cases he is beholden to the buyer.

If he gives the buyer a good, close inspection, then he may not have a job.

Therefore, how can one get an accurate inspection that way?

Mr. MEZVINSKY. The financing is basically the same. So the system, as far as paying for it, will not be altered at all.

Mr. THONE. But, in your testimony you talked about not worrying about budgets. You just have to get the job done.

I think some of us should worry about the numbers and the budget.

Mr. SMITH. In the administration's original proposal, which was turned down by OMB, it was estimated that the cost would be three and half million dollars to the Treasury, and the latest proposals keeps the private inspectors and it is over $9 million, so they themselves have estimated that their recent proposal is the most costly proposal of all.

Mr. THONE. I do not read it that way, but we will let Mr. Feltner from the Department address the point in due course.

The CHAIRMAN. Mr. Bergland.

Mr. BERGLAND. Thank you very much, Mr. Chairman.

I thank you gentlemen for your position and sharing your research on this matter.

I concur completely in the need for having a State and Federal system for the reasons you have cited.

In the event we choose not to terminate the private system, I think that we at least need to change the penalty provisions for those who violate the law.

I would be for a penalty provision that would require that anyone who has violated the law should have his license suspended for all time, with private inspectors getting time in the penitentiary. This would give them cause to stop and think about this outrageous conduct which has been documented. There is more to come, I might say.

Some years ago I was visited by some persons who buy and use grain from a foreign country.

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They were on my farm on northern Minnesota. We, at that time, were harvesting a No. 1 hard, dark, northern spring wheat. This was 1½ percent dockage. The grain went from my combine to the elevator, where it was screened again, the grain moved to central markets one-tenth of 1 percent dockage. These experts looked at the grain coming from my machine, and marveled at the cleanliness of the commodity, and told me that when they bought that grain it had 5 percent trash. They asked me how this could happen. I did not know at the time, but I think now I understand what is taking place.

Mr. Smith, it has been argued that this bill ought not to contain any changes in the Federal standards, and that, rather, we ought to confine our action to the question of the licensing of the inspectors or the changing of the program in that regard.

Do you think we ought to include grade standard changes at the time that we consider changing the inspection system?

Mr. SMITH. I think it is absolutely essential that we do something to restore our reputation for grain in the world market. We ought to also encourage local producers to deliver a grain that is of high quality and we are not doing either one. If we do not do these two things, then I do not see how we can compete in the world market.

For example, we can buy soybeans from Brazil with zero foreign material, and buy wheat from Canada with zero foreign material, and we have just got to change our standards so that foreign buyers look to the U.S. grain as a quality product.

At least we ought to encourage higher quality instead of discouraging it.

Mr. BERGLAND. I agree with you completely.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Mr. Fithian.

Mr. FITHIAN. Thank you, Mr. Chairman.

I would like to ask Mr. Smith a couple of questions.

Before I do, let me say that I would hope throughout these proceedings and hearings we could get away from the bogey of federalism and this sort of thing. I think there are two things that we ought to keep in mind.

One is our credibility in the foreign market, where the credibility is sadly sagging. We have to do something to put it back on the right track.

Second, under the present system, the private grain inspector is beholden to the person who pays his salary.

The whole history of civilization from ancient China until today documents time after time, the generation after generation, how that kind of system will provide and produce the kind of thing that we have been reading about in the gulf ports. I do not think there is any question about it. We can argue about it around here until Congress adjourns, but that is a fact of history.

I am particularly impressed with the Smith approach to this. I have some questions that I would like to try to clarify.

On page 10 of your testimony, you suggest that the Department would, in fact, legislate or write the standards.

Do you have confidence, Mr. Smith, that this in fact would be done by the Department?

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Mr. SMITH. We would direct them in the legislation, and they would be directed to do so within the guidelines. This is the usual way of proceeding in this kind of a matter.

As I said in the statement, the alternative would be to try to legislate the standards. I think it is too difficult to do without having the usual input in administrative proceedings from buyers and sellers, and those in the industry, and those who have been working in the area.

Mr. FITHIAN. My second question is this. Maybe we cannot generate this figure, but you responded to Mr. Thone's question by saying that your system would turn out to be cheaper than what the Department is now proposing.

Can you give us a rough figure?

Mr. SMITH. Under the Department's latest proposal, they would add 175 inspectors for the purpose of watching these private inspectors. Under the original proposal, which they submitted, they did not do this. This was the reason that the latest proposal costs more money.

So, you really have 175 additional nonproductive personnel loaded onto the system.

The buyers themselves pay fees which pay for the system. So what the administration's proposal would really be doing is loading onto the buyers and sellers an additional cost of that additional personnel, who do not perform a service that is needed if you eliminate the conflict-of-interest situation.

Mr. FITHIAN. This data would be extremely hard to come by, but I wonder if you could give us the benefit of your thoughts as to how widespread the short-weighing situation is.

talked to a substantial number of elevator operators, and almost every-

Mr. SMITH. It is very widespread. All I can tell you is that I have talked to a substantial number of elevator operators, and almost everyone of them tells me that they have trouble. At first, in most cases, they try to get the railroad to pay. Many at first thought the railroad must be at fault. They thought that they must not have delivered the grain, or that there was a hole in the car, or something like that. The railroads, in some instances, made partial adjustments. They took the position, however, that on hopper cars, there is no way for any grain to get away. They would not make any adjustment on that.

So, after trying that a few times, many of these elevator operators told me that they quit selling to the ports.

Mr. FITHIAN. Thank you.

Mr. Burlison, if we were to accept your suggestion to permit the farmer to ask and get a free inspection, do you have any rough figure about what the additional cost would represent?

Mr. BURLISON. I cannot give you anything specific on that. I would suspect, however, that the overall cost of the program would be essentially unchanged. It would merely be a shift from the payment of inspection from the producer or from the trade to the Federal Government. So, I would think that the $60 million figure that has been mentioned is somewhere in the ball park.

Mr. FITHIAN. I see my time is running out. I have one last question.

Congressman Mezvinsky, the difference between your bill and the others is of total Federal and a combination of Federal and State. Is there any difference in price.

Mr. MEZVINSKY. Basically, I support what Congressman Smith has done, separate from inspection. The pricetag is based on a present sys-

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tem of a fee schedule. It would be paid by the buyer. So, basically we are not really talking about a fee concept that is different.

I can understand that the question is raised about the Federal role in the State. There are some private inspectors that are very good, very conscientious. I just think that after thinking it through, that first the funding is basically the same; and that second of all, just looking at it historically, if we look at the conflict-of-interest problem, I felt we could lessen the conflict of interest by moving away from a private and State system, and having a more uniform guideline.

But the funding would be paid for use of the system by the buyer.

Mr. FITHIAN. As I understand it, Mr. Smith's bill would necessitate an automatic stamping device at the time it is weighed.

Mr. SMITH. Some States already do it.

Mr. FITHIAN. We do in Indiana.

Do you have any figure for what the changeover of the systems would cost?

Mr. SMITH. No; I do not. I know it was done in Iowa several years ago. I never heard any complaints by any of the people that had to put the device on their scales, so I do not think it is great enough to complain about.

Mr. FITHIAN. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Grassley.

Mr. GRASSLEY. Mr. Mezvinsky, one of the statements that you made was analogous to the situation with meat inspection. The bill that was passed at the Federal level and the one that the States had to follow through on, ended up by putting a lot of custom locker plants out of business in our State. Might some of the small country elevators be forced out of business?

Mr. MEZVINSKY. I would say that the problem would be with the private inspectors. Certain areas have private inspectors, but as far as elevators, the answer is "No." There are private inspection services. They are separate from that. Their whole function is to inspect grain.

Whether you went to a overall State plan, which has been discussed by our State Department of Agriculture in Iowa, or to a uniform Federal system, there would not be too much difference in regard to elevators.

Mr. GRASSLEY. There is nothing that would lead to increased standards that they would have to meet, or increased fees to pay? These would have an adverse economic affect on the small country elevators.

Mr. MEZVINSKY. The user fee would be paid. The financing of a Federal system would be the same as a private and State system. It would be paid out of the user fees.

As to who would pay the supervisory personnel, there would be an additional cost.

I think that Congressman Smith is pointing out that basically, when you look at the different approaches, the approach which has been submitted by the USDA would be more expensive.

Mr. GRASSLEY. May I ask Congressman Smith on that? The reason I am asking this is because I am sure it is not the intent that a lot of these custom locker plants would be forced out of the meat business, but we lost something like 750 lockers.

Mr. SMITH. It is not comparable. The Meat Inspection bill was based on the health and welfare clause. It is mandatory for the health and

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wealth of the community that they come up to certain standards or they do not stay in business.

This law is based on the interstate commerce clause, and all we are doing is providing a service. If the buyer or seller wants somebody to grade his grain which is being bought and sold, then we furnish the service. There is nothing to force anybody out of business unless he happens to be one of those individuals who cannot stay in business unless he cheats.

Mr. GRASSLEY. I am suggesting this to the committee as a whole. There ought to be a statutory definition of a reasonable fee.

Mr. SMITH. The definition in my bill is that it is whatever is required to cover the cost, so that could be adjusted from time to time. The private agencies are making a profit so there is no reason, when you are operating not for profit, for the fee to be any more than it is now.

The Department will determine what the cost will be in a normal year. The administration's bill says in a previous year, but I do not like that because we sometimes have a billion more bushels of corn one year than we have another year, and the fees then would be different. So I believe we should use a normal year as the basis and figure on the average what the cost is.

Mr. MEZVINSKY. Without question we find that some agencies made a profit on the fees, and instead of it going back into the grain inspection it has been siphoned off into other areas which had nothing to do with grain inspection. That subverts the program.

Mr. GRASSLEY. Mr. Smith, could I also suggest that the good parts of your bill that, for example, deal with grading and quality and moisture, and all the discounts that the farmer generally gets and none of the incentives or rewards for producing a good crop, go with any change in the inspection.

Mr. SMITH. That is true.

Mr. GRASSLEY. I would imagine that you would want to see this committee include those things in a bill regardless of what form of inspection.

Mr. SMITH. I certainly would.

As I said before, the administration's present bill is not the one that the Department wanted. I have the working papers that they sent to OMB and what they wanted was really Federal/State inspection. In fact, they warned of the conflict of interest in the current system which I pointed out in my testimony.

Mr. GRASSLEY. Have you run into any opposition from the Department to parts of your bill?

Mr. SMITH. Not unless they felt the restraints from OMB.

The CHAIRMAN. The chairman would like to make an observation.

The general policy will be to establish a practice of recognizing two Members of the majority, one Member of the minority, and so on. I will generally follow the seniority, so even though a Member does not seek recognition, if he is senior at the time that the Q. & A. period is open, he will be recognized.

I modified that yesterday with Secretary Butz because of the problem of great interest, and my concern that Members a little farther down the seniority scale who had not had an opportunity to have a

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dialog with the Secretary would be excluded if we went strictly by seniority.

I am not in any way trying to limit the members' questioning. We have benefited on this committee by having a number of members—and the three at the table are strong examples—who have an expertise in this area. It is natural that the committee will want to question them fully as they have.

I just ask the members' indulgence, however, because the Assistant Secretary from the Department is here and we would like, if possible to begin the Departmental testimony.

So, if members have questions that they would like to ask our three colleagues, I do not want to inhibit them but I feel that if you do not have anything pressing we should move on to the departmental witness.

I think it a great credit to the gentlemen at the table that, contrary to the occasional experience in committees where Members of Congress come in and testify and the reaction of the committee of course is to thank them very much but there are no questions. These gentlemen obviously have elicited questions from our committee.

We appreciate the support that we have had. Mr. Krebs was seeking recognition.

Mr. KREBS. Mr. Chairman, my question is a brief one. It is addressed to my three colleagues.

I am somewhat intrigued that you gentlemen are highly proficient in this field. I am not.

I am also intrigued by the historical background of this cozy relationship. I wonder whether any of you gentlemen could shed some light on how this built-in conflict of interest has been allowed to remain and how it might be dealt with.

Mr. SMITH. Briefly, it was my understanding that different people were attaching different grades. There was no uniformity in grades. People in Indiana might want to buy some corn in Iowa and they did not have a common grade.

So they asked the Government to set up a common grade and to have licensed inspectors come in. They put the emphasis on getting a uniform grade rather than on who was doing the inspecting.

So they sort of backed into the conflict of interest situation. I do not think they paid attention to it.

Mr. MEZVINSKY. Part of the problem was also this. It was not as if the USDA was not on notice. They were on notice several years back about this problem, but unfortunately they did not step in. It grew to the dimensions that it has today. It is now exploding with a criminal action.

Whenever you have a situation where a person who is paid to enforce an act in the interests of the public—but is not paid by the public but by the person that he is regulating—you have the potential for problems to come up, and unfortunately that is what has happened. As far back as 3, 4 or 5 years ago, the Department was on notice about a lot of these problems but did not take action.

That is one reason it has exploded today.

Mr. KREBS. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Bedell.

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Mr. BEDELL. Thank you, I would like to commend you for being here. Particularly, I would like to commend my colleagues from Iowa for the work they have been doing.

Mr. Mezvinsky, one of the members of the committee apparently took your remarks to say that numbers and budgets did not concern you.

I did not hear you say that. I would like clarification.

Mr. MEZVINSKY. No, I said the prime concern should not simply be numbers. As regards numbers, and as was pointed out in questioning, the financing is the same as under the private and State system. In the long run it is going to be a less expensive program than the USDA proposal. I am very concerned about numbers and for that very reason, the financing will be by the user fee, but we lose sight of the problem we are attacking if we get too concerned with numbers.

Mr. BEDELL. But do budgets concern you?

Mr. MEZVINSKY. Yes, they concern me. We can have a less expensive program which is more uniform and more efficient and be in the public interest.

Mr. BEDELL. You mentioned that some State is not abiding by the law now. Can you tell us which State that is?

Mr. MEZVINSKY. That State is Alabama. In a letter that was addressed to me on July 2, 1975, from John C. Blum, who is the Administrator of the Agricultural Marketing Service—he's the Acting Administrator—we asked specifically for a list of those State-owned grain elevators. That is, owned and leased, and the type of official inspection agencies serving each facility, and they broke it down. In the area of State-owned and operated it was State inspections, which is explicitly in conflict. I read in section 29.96 where it says that an official inspection agency cannot own and operate grain warehouses or elevators. In this case we see that the State of Alabama, an official inspection agency owned and operated an elevator in Mobile, Ala.

Alabama is explicitly in violation of that subsection in Mobile and implicitly you have problems with seven Alabama elevators that are State-owned and leased to grain firms with State inspection.

I would be glad to submit that letter for the record.

Mr. BEDELL. Thank you.

The CHAIRMAN. Without objection the material will be supplied.

[The letter referred to by Mr. Mezvinsky follows:]

UNITED STATES DEPARTMENT OF AGRICULTURE,
AGRICULTURAL MARKETING SERVICE,
Washington, D.C., July 2, 1975.

Hon. EDWARD MEZVINSKY,
House of Representatives,
Washington, D.C.

DEAR MR. MEZVINSKY: This is in response to the telephone conversation between Sue Wellford of your office and Charles Turner of our Grain Division, wherein she requested a list of (1) State-owned-and-operated grain elevators; (2) State-owned but leased grain elevators; and (3) the type of official inspection agencies serving each facility.

The following are elevators in these categories and the types of agencies serving each:

State-owned with private inspections: North Dakota State Mill Elevator Co., Grand Fork, North Dakota.

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State-owned-and-operated with State inspections: Alabama State Elevator, State Docks, Mobile, Ala.

State-owned, leased to grain firms with State inspections (Alabama): Demopolis, Claiborne, Selma, Tuscaloosa, Columbia, Montgomery, Phenix.

Sincerely,

JOHN C. BLUM,
Acting Administrator.

Mr. BEDELL. Have you submitted that information to the USDA?

Mr. MEZVINSKY. They are on record on that. They sent it to me and to my office. It is fair to say that there has not been any action called to my notice to date. That is, action which has attempted to enforce section 26.96.

Mr. BEDELL. In checking with my people in northwest Iowa, they feel fairly strongly that in terms of the foreign matter regulations, that there should be a difference between cracked corn and dirt in the requirements and that very possibly for cracked corn we need more than 1 percent or more than a half percent, but they do not need more than that in terms of nonvegetable foreign matter included therein.

Would you people tend to support that belief?

Mr. SMITH. That is included in my bill, I differentiate between adulteration and normal foreign matter and blending. Blending is permitted, but adding foreign matter is not.

Mr. BEDELL. OK. But blending would not be permitted if it included any nonvegetable matter.

Mr. SMITH. Blending would be permitted of anything that was not added. In other words, if you have some soybeans with 1 percent wheat seeds and some with 3 percent, then you could blend them together and get 2 percent.

Mr. BEDELL. I understand, but that is not really my question. My question is, Would you be agreeable to regulations which would say that there would be a different requirement in terms of vegetable foreign matter and nonvegetable foreign matter, like in soybeans you do get dirt sometimes in harvesting.

Mr. SMITH. The grade will do that. There is a certain tolerance for cracked corn or broken kernels, for example, and a certain tolerance for foreign material. That is established in the grade as it is now. I believe it is too wide a tolerance, that is the problem.

Mr. BEDELL. As it is now, it does not matter whether it is cracked corn or whether it is dirt. You are allowed a certain percentage and it could be either cracked corn or dirt.

Mr. SMITH. They have a separate category for broken kernels and foreign material.

Anyway, we direct them to set up the standards that would produce a quality product.

The CHAIRMAN. The time of the gentleman has expired.

Is there anyone on the minority side who wishes to ask a question? If not, you are recognized Mr. Baldus.

Mr. BALDUS. In Wisconsin we established good milk standards early and that is why we are so well noted for dairy products.

We are probably going to be producing less of it and more grains if present dairy policy is continued. That is why I am interested.

This seems to pivot on interstate trade. Can you tell me what percent of the grains produced in Iowa do travel interstate and may be intercontinental?

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Mr. SMITH. Twenty-five percent of the corn produced in the United States, about 55 percent of the soybeans, and about two-thirds of the wheat is shipped overseas. Another reason why the obvious need for this kind of change did not occur years ago is that at that time most grain just moved as far as a team of horses would pull it. There were not as many people interested in having these inspections as there are now, with the tremendous export business.

Mr. BALDUS. The percent of grain that you produce and that goes out of State and out of Nation has increased dramatically in the last 10 years, I take it?

Mr. SMITH. It certainly has.

Mr. MEZVINSKY. And it is critical in terms of agriculture in our State. The same as in your State, as evidenced by the high emotional feelings that have come about as a result of the stopping of the sale to the Soviet Union, and how that has been handled. Several of us were in the Soviet Union and we discovered that their export group called a kleeb were here in this country specifically concerned that if they were going to purchase any grain, they wanted to make certain that they get what they contract for.

Japan has had problems. They have exercised appeal rights, and other foreign countries have. So it is critical in terms of domestic in our own State, as it is in yours.

It then has the effect on international trade with foreign countries.

Mr. BALDUS. You have the character of the producer and seller, and the character of the product.

Mr. MEZVINSKY. The producer wants to produce, and has produced, the quality product. He just does not want to have it changed as it leaves the inspection station and finds that he is blamed for a quality product that he has produced on the farm.

Mr. BALDUS. I yield back my time.

The CHAIRMAN. Are there any other questions?

If not, the Chair wishes to thank Mr. Smith, Mr. Burlison, and Mr. Mezvinsky most sincerely for their excellent oral testimonies.

Mr. SMITH. Mr. Chairman, I thank you for the opportunity to appear.

The CHAIRMAN. It is obvious that you are concerned, and the committee appreciates your presence.

The Chair wishes to state for the record that Hon. Dick Clark, U.S. Senator from Iowa, who was scheduled to appear today, had a conflict with a pressing committee matter; and his statement will, therefore, be included in the record in its entirety.

Senator Clark indicated to me last night, however, that he hopes to have an opportunity next week to appear in person.

[Senator Clark appeared before the committee September 23. His statement appears beginning on p. 131.]

The CHAIRMAN. The next witness will be Mr. Richard Feltner, Assistant Secretary for Marketing and Consumer Services of the U.S. Department of Agriculture.

Secretary Feltner will be accompanied by Mr. Donald E. Wilkinson, Administrator of the USDA Investigation, and Mr. James H. Lauth of the Transportation Division.

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Mr. BALDUS. Mr. Chairman, may I interrupt to say that Mr. Wilkinson was former head of the Department of Agriculture in the State of Wisconsin and I would like to add my welcome to yours.

The CHAIRMAN. Mr. Feltner, we welcome you and your associates this morning and are sorry you had to wait.

Mr. FELTNER. We do appreciate this opportunity to appear before you and present our views. We sincerely appreciate your concern and interest in helping the Department develop and implement a system of grain inspection which will help assure the integrity of U.S. grain inspection certificates, both in this country and abroad.

If I might, Mr. Chairman, I would like to submit my statement for the record.

The CHAIRMAN. Without objection, so ordered.

[The prepared statement of Mr. Feltner follows:]

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Statement of
Richard L. Feltner, Assistant Secretary
Marketing and Consumer Services
United States Department of Agriculture

Mr. Chairman and Members of the Committee:

We appreciate this opportunity to appear before your Committee today to present the Department's views on legislation designed to improve the national grain inspection system. We welcome your concern and interest in helping the Department develop and implement a system of grain inspection which will help assure the integrity of U.S. grain inspection certificates both in this country and abroad.

The Department has submitted legislation to the Congress which has been introduced as H.R. 9467 and S. 2297. Our testimony today will address these proposals.

The Department initiated investigations at New Orleans 2 years ago involving allegations of violations involving the grain inspection system. As a result of that investigation and investigations by the FBI, U.S. Attorneys, and Federal Grand Juries, a total of 63 indictments have been issued. A total of 14 licensees and 3 former licensees were indicted. We temporarily suspended the licenses of all 14 of the licensees soon after their indictments. Currently, 6 of the licenses have been revoked, 7 of the licensees have been issued charges resulting from the indictments and 11 of the licensees are still temporarily suspended because a final conclusion has not been reached on the criminal indictments.

The investigations are continuing by these investigatory bodies in addition to investigations by GAO, IRS, and several congressional committees. Virtually, every U.S. port where grain inspections are performed will be included in the investigations. In addition, the investigations are expanding to inland locations.

Because of these investigations of irregularities in the grain inspection system, serious questions have been raised about the adequacy of the current public/private system of grain inspection and

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the ability of certain official inspection agencies to objectively inspect grain and to control the actions of some of their employees. The investigations thus far have highlighted the inability of some private inspection agencies to obtain objective, uniform, and in some cases, honest application of the U.S. standards for grain, particularly with respect to export grain. A basic defect in the present system is the inherent conflict of interest which now characterizes many of the private inspection agencies and the Department's inability to adequately supervise and control their activities under the Act, and to perform original inspections in the United States.

At the time of our appearance before the Senate Committee on Agriculture and Forestry on June 19, 1975, we indicated that the Department had under consideration a number of alternatives to revamp and improve our national system of grain inspection. After consideration and somewhat lengthy deliberations over the various alternatives, the Department has developed a proposal which, we believe, will overcome shortcomings in the existing system and which will restore integrity to our national grain inspection system. Through the proposed legislation we will provide additional authority over inspection activities while keeping Federal personnel and funds to a minimum.

The additional controls which the Department is proposing include:

-- opportunity to monitor officially inspected U.S. grain in foreign ports.

-- authority to require official inspection agencies to meet certain criteria to qualify for designation.

-- authority to temporarily suspend the designation of an official inspection agency for specified causes and to perform original inspections on a temporary basis if such inspections are not otherwise available from qualified official inspection agencies. Our proposal also pro-

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vides for revocation of the designation of an official inspection agency for such causes after opportunity for hearing.

-- triennial designation of official inspection agencies.

-- summary revocation of a license whenever the licensee has been convicted of a violation of the Act or any offense under Title 18, United States Code with respect to performance of official duties under the Act.

-- authority for the Department to assess, for cause, civil penalties up to $50,000 against an applicant for inspection.

-- broadening the authority of the Department to deny official inspection service to an applicant for inspection so as to authorize such denial for commission of any violation of Section 13 of the Act or conviction of any violation of other Federal law involving the handling or official inspection of grain.

-- elimination of conflicts of interest by official inspection agencies. (No official inspection agency or its personnel or stockholders may have a financial interest in any business merchandising or handling grain or using the official inspection service.)

-- requirement of records, and access to records and premises, of applicants for inspection.

-- increasing penalties for certain violations of the Act from misdemeanors to felonies (improper influence or forcible assaults on official inspection personnel; acceptance of money by such personnel for neglect or improper performance of duty).

-- requirement of installation of monitoring (surveillance) equipment in grain elevators, as condition of eligibility for official inspection.

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The above authorities plus additional supervisory personnel should overcome the shortcomings of the existing system without eliminating qualified private agencies from participating in official inspections.

We recognize that there are inherent conflicts of interest between the industry and non-State official inspection agencies. The pressures that can be brought to bear by the grain industry on the licensees employed by such agencies can reduce the objectivity of the licensees when performing official inspections. Failure to yield to such pressures could affect the salaries or the employment of the licensees. We believe that these inherent conflicts of interest will be eliminated by the proposal which precludes an agency from being designated if the agency or its members, officers, employees, or stockholders are employed by or have any direct or indirect interest in any grain business or the use of the official inspection service. Under this proposal, many chambers of commerce, boards of trade, and grain exchanges would not qualify for designation because of such affiliations. Eliminating such inherent conflicts of interest will play a major role in restoring integrity to our national grain inspection system.

Another important facet to our proposal is the authority for the Department to perform original inspections on an interim basis during suspension or revocation proceedings against an official inspection agency, where no other qualified agency or person is willing or able or can acquire adequate facilities and personnel to provide service. The Department has never had authority under the U.S. Grain Standards Act to conduct original inspections, except on U.S. grain at Canadian ports. The new authority would not be used except under the limited circumstances prescribed in the bill. However, we believe that such authority is needed to assure continuity of service under the tightened inspection standards which are proposed.

We strongly feel that to the extent practicable and feasible our grain inspection system should continue to be in the hands of designated

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official inspection agencies. However, there are situations as covered by the proposal in which authority for the performance of original inspection by USDA is needed. Given the parameters which we have proposed in our legislation, we believe we can provide a system of national grain inspection that will have the confidence not only of domestic buyers but foreign buyers as well, and one that will keep U.S. exports of grain competitive in the world market.

There have been a number of proposals introduced for the purposes of improving the grain inspection system. H.R. 7442 and H.R. 8347 would provide for a total Federal grain inspection system. H.R. 8764 would provide for a combination Federal-State system, with all export grain inspections conducted by Federal employees and authority for the Secretary to provide for all original inspections of other grain to be conducted by the States. I might say that each of these proposals resemble in some degree the various alternatives considered by the Department. While we are sympathetic to the objectives of the various proposals which have been presented, we do not feel they are in the long-run interest of consumers or the grain industry in general.

To provide for a total Federal grain inspection system, such as is proposed by H.R. 7442 and H.R. 8347, would cost about $60.8 million and involve the employment of a Federal staff approximating 3,200 persons. In addition, this raises the question of the possibility of a Federal obligation which Congress or the courts may feel is owed to the private agencies as a result of such legislation. This proposal would run counter to the Administration's desires to retain both State and private sector responsibility in our national grain inspection system and to keep program costs and Federal employee man-years to a minimum without jeopardizing the integrity of our grain inspection system.

Many States now have strong inspection systems and provide adequate service at both export and interior points. Many States would resent the implication that the service they now provide does not com-

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ply with present requirements. Also, the elimination of the private agencies, as I have previously stated, is not the will of the Administration. We continue to stress the importance of minimal Federal involvement in programs where designated State and private agencies can fulfill the requirements. The estimated annual cost of the Federal/State system contemplated by H.R. 8764 is $40 million and would involve the employment of approximately 2,626 persons of which 1,426 would be Federal and 1,200 State. These figures are estimates for costs of inspection service. The intent of H.R. 8764 and the scope of the Department's responsibility under the bill are unclear with respect to the regulation of weighing, and supervision of the weighing of grain and control of scales. Also, we cannot predict how many official inspection offices and laboratory facilities would have to be relocated to comply with the bill because we do not now have information as to the ownership or operation of the buildings in which such offices and facilities are located. Costs of enforcing the registration provisions would partly depend on the number of persons identified as subject to such provisions. Therefore, we are unable at this time to determine funding and man-year requirements for these aspects of the bill. However, it is apparent that these provisions would greatly increase the workload of the Department.

Our proposal (H.R. 9467) is directed at correcting the inadequacies which now exist in our national grain inspection system at the least possible cost to the U.S. taxpayer and minimal increase in Federal employment. Although some additional Federal supervision will be needed, the major factors contributing to the irregularities in the existing system center on the inherent conflicts of interests and lack of certain authorities. We believe that under our proposal the problems can be resolved and that we can still retain the basic framework of the public/private system.

Since the investigations began on irregularities in the grain inspection system, a number of irregularities have come to light in the

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weighing of grain. At the time the Department was considering what changes were necessary under the U.S. Grain Standards Act, we were concerned about being able to properly fulfill the responsibility that already existed under that Act. The U.S. Grain Standards Act confers no authority for the determination and certification of the weight of bulk grain. While this Department has authority to license weighers of grain under the United States Warehouse Act, that authority applies only to weighers for warehouses voluntarily obtaining licenses under that Act. The General Accounting Office, on behalf of the Senate Agriculture and Forestry Committee, is presently conducting a thorough study into weighing. I understand that they are scheduled to report their findings and recommendations to the Congress by February 1976. We're also considering this matter but it's too premature to make any recommendations at this time. The outcome of the GAO study, as well as the Department's findings and recommendations, should provide the basis for decisions and recommendations in this area.

Included in the Department's proposed legislation are a number of provisions which are designed to reduce violations of the Act committed by applicants for official inspection services. The proposal broadens the basis for administrative denial of official inspection services and authorizes the administrative assessment and collection of a civil penalty up to $50,000 as an alternative to, or in addition to, the denial of service or the criminal penalties of the Act. Increasing the penalties from a misdemeanor to a felony level for such violations as improperly influencing official inspection personnel should have a deterrent effect on commission of such crimes and reduce the attempts by applicants to influence the improper inspection of grain.

The proposal to monitor officially inspected U.S. grain in foreign ports should not only provide data for improving the official standards and grading procedures but should also provide data on handling of grain shipped from the United States. If incorrect grading or improper handling is evident when the grain is unloaded at destination, investigations will

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be instituted to determine the reasons for such grading or handling. Violations by the industry should also be reduced through the installation of specified sampling and monitoring (surveillance) equipment in the grain elevators so official inspection personnel can more adequately supervise the grain inspection and handling events which occur during loading. Also, the proposed authority for the Department to have access to the premises and to records of purchases, sales, transportation, storage, treating, cleaning, blending, etc., should facilitate enforcement of the Act.

The bill also imposes more stringent requirements on official inspection agencies with respect to other aspects of their inspection responsibilities; such as, training, staffing, supervision, and reporting requirements. Failure to comply with such requirements, violations of the Act or conviction of violation under other relevant Federal laws could result in suspension or revocation of the designations of official inspection agencies.

Insofar as our present authority permits, the Department has taken action to correct deficiencies in the inspection system. These include:

-- reorganization of the Grain Division of the Agricultural Marketing Service in 1974, and installation of new leadership.

-- initiation of a training and recruiting program to hire and upgrade present personnel.

-- shifting of personnel to meet changing workloads on a continuing basis.

-- triennially examining licensees who are employed by official inspection agencies.

-- establishing more precise criteria for licensing personnel for performance of stowage examinations. Written examinations have been required for such licensing actions since September 30, 1974.

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-- issuance of a stowage examination instruction to provide uniform criteria for the performance of stowage examinations.

-- elimination of non-compartmental grain probes (which give less representative samples than compartmental probes) as a means of obtaining official samples.

-- prescribing revised tours of duty for Federal employees to provide more effective supervision.

-- maintaining of file samples which can be used as a basis for reinspections, appeal inspections, and for supervision purposes.

-- implementation of a system for monitoring inspection accuracy, using statistical tolerance and computer analysis to identify grading trends or departure from norms, and to alert supervision to a need for corrective action.

-- temporarily suspending licensees indicted on charges of accepting bribes or similar offenses and following later with proceedings to determine whether revocation of their licenses is warranted under the Act.

In addition, we amended the regulations under the U.S. Grain Standards Act. The amended regulations, which became effective September 4, 1975, provide in part for:

-- the use of approved mechanical sampling equipment in export elevators.

-- opportunity for increased supervision of shiplot grain during loading. Previous regulations did not provide for stopping of the loading of a vessel for supervision purposes.

-- applications for designation as an official inspection agency to show the names of the owners or officers, and to include a copy of the articles of incorporation if the agency is a corporation. This

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will facilitate determining whether there are conflicts of interest prohibited by the present Act. We will refuse designation where such conflicts are found to exist.

-- withholding inspection service for conditions that are hazardous to the health or safety of official inspection personnel.

The bill would require the Secretary to collect fees to cover the estimated cost to the Department incident to the performance of official inspection functions by Department personnel (or contract licensees) as provided in the bill, including administrative and supervisory costs "directly related" to such inspection of grain. The bill also would require the official inspection agencies to pay in quarterly installments, fees, based on their volume of operations, to cover the Federal administrative and supervisory costs "directly related" to the official inspection of grain by such agencies and the designation and supervision of such agencies (except for costs under sections 7(f)(4), 9, 10, and 14 of the Act relating to suspension or revocation of designations or licenses, denial of inspection service, or criminal actions). All these fees would be deposited in a fund to be available without fiscal year limitation for expenses of the Department incident to providing official inspection services, including such supervisory and administrative costs.

The "directly related" costs would be those involved in operations of Department personnel below the level of the office of the Chief of the Grain Branch. The bill would authorize, on a recurrent basis, appropriations for all Federal administrative and supervisory costs not covered by such fees, including among others, costs involved in monitoring activities in foreign ports with respect to grain officially inspected under the Act, improvement of the official standards, inspection procedures and equipment, investigation of grain handling under section 4 of the Act, and development of regulations.

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The bill would further authorize an appropriation to provide funds for the Federal administrative and supervisory costs that would normally be met by fees during the initial period of approximately 6 months while it is anticipated that the fees provided for in the Act would accumulate to a sufficient level to cover such expenses on a current basis. It is proposed that the initial capitalization of a fund for this purpose be $4,250,000. These funds would be considered an advance and repayable with interest over a period of time as determined by the Secretary and the Secretary of the Treasury.

An estimated total of 444 Federal man-years or an estimated addition of 175 man-years over the current 269 man-years would be required for the proposed revised public/private grain inspection system. Staffing of the State and private agencies is expected to be essentially unchanged from the current system. The annual cost of the entire public/private inspection system is estimated at $39,277,000 with the Federal program estimated at $9,277,000. Of the latter amount, $7,857,000 would be recovered from fees and $1,420,000 would be appropriated monies as opposed to the current appropriated figure of $3,126,000.

Because of the recent revelations of the irregularities in our national grain inspection system, both foreign and domestic customers are apprehensive about the quality and sanitation of their purchases. There is sufficient decline in the credibility of our grain inspection system and the certificates of grade that are issued to warrant significant changes in the present system. We believe the proposals we have outlined here today will provide those changes and will provide the vehicle to restore confidence in our national grain inspection system.

Mr. Chairman, this concludes my statement. I and my colleagues will be glad to respond to any questions the Committee may have.

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The CHAIRMAN. I have an initial question.

As you were recounting the provisions of the administration's recommended bill, you referred to a conflict of interest provision contained therein. It begins on page 11 of section 7, paragraph (b) and reads: "No official inspection agency or any member, officer, or employee, or stockholder thereof shall be employed or otherwise engaged in, or directly or indirectly have a financial interest in, any business involving the transportation, storage, merchandising, or other handling of grain, for the use of the official inspection service."

I can understand how an inspection agency might be a single proprietorship or a partnership, but the word "stockholder" implies the existence of a corporation. That leads me to my question. Obviously, a corporation can control its officers and employees, but how does one control transfers of stock from one stockholder to another? I cite as an example a secondary holder of the stock having an ownership in a railroad stock or other transporting business because it transports grain.

Would the Department then be faced with suspending that inspection agency because of an ineligible stockholder's interest?

If the agency had any control, I am sure it would not want to find any stockholders holding ineligible interests in other businesses. It seems to me, however, that one share of stock constitutes a financial interest.

How can one control all transfers of stock among all the original stockholders and prevent those shares from being sold to a person holding an illicit interest?

Mr. FELTNER. This would not be easy. The major concern would be with the direct ownership interest in grain firms that might have the potential of doing business with that private agency.

I think that ownership question would not be too difficult to control.

But, as for the question of somebody who owned a share of railroad stock, that is a very difficult one.

The CHAIRMAN. Let us say, for example, that one share of stock is sold to the Farmers' Union Grain Co. of Ames, Iowa, The Department's language says "any financial interest in any business involving the transportation, storage, merchandising, or other handling of grain." That covers thousands of corporate entities in the United States which are involved in exactly those businesses.

I am troubled by this. How would it be possible for the Department to monitor such activity? That is one problem; the second aspect is: How would we determine that a stockholder, perhaps for malicious reasons, deliberately transferred stock or literally gave it to someone for practically nothing. What would happen when the Department noticed that the agency had an illicit stockholder?

Mr. FELTNER. If that happened, we would have the authority to lift the designation of the inspection agency. The administration of any kind of regulation like this has to be with reason. If it were done maliciously and if that were determined and well known, then the license would be reinstated without much difficulty.

The CHAIRMAN. Let me drop the condition since it is not always easy to establish whether or not something is done with malice.

Obviously some internal control can be maintained by the inspection agency. It can, for instance, make it a condition of employment that employees not own such stock; and if they do, they can be discharged.

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I am troubled as to how we might deal legislatively with the issue of stockholdership by people who might be owners of agency stock while having financial interest in other business firms. It seems to me that it would be very difficult to control.

You could, of course, lift the agency's license. On the other hand, you might not if you felt that it was a deliberately created problem on the part of somebody else.

But what do you do if there is a substantial ownership of stock which the inspection agency says it cannot control because the transfer of stock was a private affair?

I think that would definitely create an administrative problem.

Mr. FELTNER. You are exactly right, Mr. Chairman.

Obviously there is a broad area here for interpretation and definition. Rules and regulations have to be determined.

This is typically the case under any law that we attempt to implement. There is a great deal of regulatory rulemaking that has to take place before it can be implemented.

There is room for interpretation.

The CHAIRMAN. I will not belabor the point. Private inspection firms can be monitored and supervised for conflict of interest by the Department and the grain inspection service. I am just raising the question as to how well you can be expected to monitor and control stock transfers.

Mr. Bergland.

Mr. BERGLAND. Mr. Chairman, I have a number of questions. I wonder if the Chair has any plans to go on into the afternoon, or if we should attempt to proceed until the bell rings?

The CHAIRMAN. The Chair would like to have some response from Secretary Feltner.

Would you be available this afternoon if we continue the hearing, or would you prefer to return on Monday?

Mr. FELTNER. Given preference, I would prefer to continue today, but we can do either.

The CHAIRMAN. Which members present now would not be able to return at 2 p.m.?

Then the Committee on Agriculture will stand at recess——

Mr. ENGLISH. Mr. Chairman, before we recess I have two letters from people in my district which I should like to submit for testimony.

The CHAIRMAN. Without objection those letters to Mr. English will be included in the record.

The committee will stand in recess until 2 o'clock.

[The letters submitted by Mr. English follow:]

OKLAHOMA GRAIN AND FEED ASSOCIATION,
Enid, Okla., September 15, 1975.

Hon. HENRY BELLMON AND DEWEY F. BARTLETT,
U.S. Senate, Washington, D.C.

Hon. JAMES R. JONES, THEODORE M. RISENHOOVER, CARL ALBERT, TOM STEED, JOHN JARMAN and GLENN ENGLISH,
U.S. House of Representatives, Washington, D.C.

GENTLEMEN: The Oklahoma Grain and Feed Association is an organization that represents the many grain and feed firms of our state. The members of this grain and feed industry trade association are deeply concerned about the attitude of Congress toward correcting recent violations of the U.S. Grain Standards Act by employees involved in the inspection and weighing of U.S. export grain. There

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currently seems to be a mood in Congress toward the involvement of the federal government in the operations of our private enterprise system. It appears that many Congressmen feel that the federal government is the sure fire cure-all for any inequities found in various segments of our economy. The very foundation of the most productive economy on Earth is built upon the idea of private enterprise. As long as there are human elements involved in *any* activity, there are bound to be mistakes made and inequities found. This is human nature. There is nothing that insures that a federal employee will be any more accurate or honest at his profession than a person involved in the same privately owned business.

The members of the Oklahoma Grain and Feed Association want to go on record as opposing a government takeover of the current inspection, weighing and protein facilities of the grain industry. We strongly urge the present systems be continued. As one member has so aptly stated, "Just because one apple in the barrel is rotten, it doesn't mean the whole bunch is bad." This illustration should be applied to the recently discovered scandal in New Orleans. To my knowledge, there has never been any fraudulent claims or major problems encountered with the grades, weights or proteins on grain issued by the privately operated facilities in Oklahoma. The inspectors are closely supervised by USDA officials, the weighmasters are closely supervised by the Association of American Railroads officials, and the protein labs are monitored by the very nature of the grain industry in itself. These firms cannot afford to have their credibility checked when they know someone down the line will be regrading the same grain or reweighing the same car.

Our Association strongly urges that Congress not over react to this current situation. As previously stated, there is absolutely no guarantee whatsoever that federally operated facilities will be any better than a similar privately owned facility. No doubt a federal or state takeover of our inspection, weighing and protein analysis systems would involve more government bureaucracy and more expense; thus causing lower prices being paid to the producer and higher prices being paid by the consumer than are curently encountered. It is without question that it would cost the government more to operate these systems than it does the present private operators. We're sure you'll agree that we don't need the federal government to become any larger than it already is.

The Oklahoma Grain and Feed Association respectfully requests that Congress keep the present methods of inspection, weighing, and protein analysis in tact, with perhaps increased federal *supervision*, not takeover, and stiffer penalties for violation of the U.S. Grain Standards Act. We definitely feel that the principles of private enterprise should be kept a part of this country's way of life.

Most sincerely,

JOE NEAL HAMPTON,
Executive Secretary.

ENID BOARD OF TRADE,
Enid, Okla., September 16, 1975.

Hon. GLENN ENGLISH,
House of Representatives, 1108 Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN ENGLISH: The Enid Board of Trade is deeply concerned with several bills before Congress designed to severely alter the grain industry as we know it today. In particular, House bills #8764, 7442 and 8347 and Senate bill 2256, which in part, are designed to provide a federal or federal/state takeover of all domestic inspection, weighing, and protein analysis facilities. We are vitally opposed to the government taking over these facilities. We feel that there is absolutely no guarantee that persons employed by the federal government will be any more accurate or honest than a person employed by a private concern for the same job. We believe that the quality of service rendered by such a government takeover would not meet the standards of those rendered by the current operators. It appears that Congress may be over reacting to an isolated situation. Just because there happened to be wrongdoings at New Orleans, Louisiana, doesn't mean the entire inspection, weighing and protein analysis system in the U.S. is doing the same.

The very workings of the grain industry in this country, *i.e.*, producer to local elevator to terminal elevator to exporter or domestic user, virtually insures that each market uphold its reputation for issuing grades, weights and proteins. Each market in this country, *i.e.* Enid; Wichita, Kansas; Kansas City, Missouri, etc.

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must uphold its integrity in the buying and selling of grain which includes these services, or the firms located in this market will find it difficult to do business. Each grain exchange or board of trade *must* uphold the integrity of the market involved. They simply cannot allow the services they perform: inspection, weighting and protein analysis in such domestic markets, to be anything but honest.

The Enid Board of Trade issues the official weights and proteins for the Enid market and have a contract with the privately owned inspection department to issue grades. Our weighmaster is closely supervised by officials of the Association of American Railroads (A.A.R.) and Western Weighing and Inspection Bureau. Each car weighed in Enid has either been weighed before it arrived or will be weighed again after it leaves Enid. The A.A.R. closely watches these official weights issued at interior market points to protect their industry from having to pay many, many claims on grain lost in transit. Any time there is a discrepancy on the weights between two markets, the A.A.R. makes sure the difference is accounted for, and is not due to faulty scales or fraudulent practices at one location. Therefore, you can see it would be practically impossible for weights in an interior market to be manipulated.

The inspection department is closely supervised by USDA officials. Each sample submitted is done so with the right to appeal the grade to federal inspectors. It would be most difficult to manipulate grades in an internal market.

Our protein lab is kept in check simply by operations of the grain industry itself.

To my knowledge, there have never been any wrongdoings or corruption with the grades, weights and proteins issued in the Enid market. We certainly hope Congress will not penalize the whole industry for something done by a few corrupt individuals. It is our belief that you cannot accurately compare the operations of the inspection, weighing and protein analysis facilities of a domestic market, *ie.* Enid, and an export market, *ie.* New Orleans, mainly because these facilities located at domestic markets are always checked again somewhere down the line. We feel that we can operate these services at a cost much lower than what a federal government takeover would bring. The increased federal bureaucracy caused by such proposed federal takeovers of the inspection, weighing and protein analysis facilities would no doubt cause many new problems for the industry.

We strongly urge that the present inspection, weighing and protein analysis systems used in the domestic markets in this country be kept intact.

Most sincerely,

JOE NEAL HAMPTON,
General Manager.

AFTERNOON SESSION

The CHAIRMAN. The Committee on Agriculture will resume its sittings for further hearings on H.R. 7442; H.R. 8347; H.R. 8764, and related legislation to amend the U.S. Grain Standards Act. We will continue questioning Assistant Secretary Feltner, who has returned with his colleagues.

Mr. Thone will be recognized.

Mr. THONE. Thank you, Mr. Chairman. Mr. Feltner, I thought you gave an excellent presentation in your statement this morning, mostly I suppose because I agreed with much of it. But to elaborate on it just a little bit, in addition to the 63 indictments that you referred to in your statement, you then go on to say that the investigations have also highlighted—I assume "also" by the way—the inability of some of the private inspection agencies to obtain objective, uniform, and, in some cases, honest applications of the U.S. Standards for grain, particularly with respect to exports.

In other words, even in addition to these people that ran afoul of the law, do you feel because of the conflict of interest problem, the matter that you referred to in subsequent testimony, that there is a necessary strengthening of the act before we can really square this matter away? Is this correct?

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Mr. FELTNER. That is correct. Two points: One, I point out that the investigations are still continuing and, second, aside from the investigations themselves, we do strongly feel that we must get rid this potential conflict of interest in order to assure that we do have an unbiased and fair system.

Mr. THONE. In other words, you do feel that there is just an inherent conflict of interest in some instances that needs to be taken care of statutorily?

Mr. FELTNER. That is right, and I emphasize "in some instances," not in all cases. As I mentioned this morning, there are 111 agencies that are designated as official inspection agencies. It would not be fair to assume there is inherent conflict of interest in all 111 of those.

Mr. THONE. You have a list here of additional controls that you ask for. Are all of those controls contained in H.R. 9467, the Foley-Wampler bill?

Mr. FELTNER. Yes, they are.

Mr. THONE. Just for my clarification, the first in additional controls that you suggested was the opportunity to monitor officially inspected U.S. grain in foreign ports. How would you do that?

Mr. FELTNER. The details of how this would be done have not yet been worked out. I think the important thing to emphasize here is that it would be selective monitoring. It would be on a sample basis. We would make no pretense of trying to check every shipment of grain that is made from the United States. This I think would be, if not an impossibility, certainly it would be an impractical thing to try to do. We would plan to sample from time to time or check from time to time in the major ports that are receiving grain from the United States. We would also make sure that we check from time to time on shipments that went from various ports within this country so we would be checking various exit points and various destination points in foreign countries.

Mr. THONE. Obviously, you have some problems in some areas here, do you not, jurisdictionwise?

Mr. FELTNER. That is right, yes.

Mr. THONE. I want to go kind of quickly because my time is very limited. Getting back to the matter that Chairman Foley made this morning, and I think he raises a pretty good one, have you had any further thought on how you would enforce any possible conflict of interest of a stockholder?

Mr. FELTNER. Yes; we have been talking about that. I think really what we need to do is to put in the law itself authority giving the Secretary discretion in determining what the conflict would be. I think if we do this, then it would be possible through rulemaking procedure to establish appropriate safeguards here. It isn't very difficult, as was pointed out. It is very difficult to make an absolute prohibition on ownership of any kind. At one point we considered putting, talking in percentages, percentage of the ownership of the firm. That also is very difficult. But we do think that given sufficient flexibility that we would be able to work out a workable solution.

Mr. THONE. And lastly this, Mr. Chairman. A matter bothered me a little this morning, and I am glad Mr. Krebs is here now. I agreed with the statement that Mr. Feltner made that just because you have

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a public official involved in these inspections isn't going to sanitize him any further than if you had private people doing it.

I remember when we had quite a discussion on food stamps, and I am not going to plow that all over again. We had several members on the other side who just raised holy Ned with me and said, "Well, Mr. Thone, you can't trust public officials. They are going to fudge on this thing, and how could you possibly present such a proposal."

Finally, Mr. Krebs at the end of the discussion kind of squared away the record that we have had about enough of that kind of total negative talk here in America. But I do agree with you, Mr. Feltner, that there is no rhyme or reason why, with proper supervision, the type you suggest in your statement with the additional teeth in the law that you ask for and other corrections here, we can't square this thing away without federalizing this inspection, and thereby adding millions of dollars unnecessarily to the cost and thousands of Federal employees and added burdens again on private industry with which they are overloaded at the current time.

Thank you, Mr. Chairman.

Mr. KREBS. Would the gentleman yield?

The CHAIRMAN. I think we will probably have an opportunity to come back to Mr. Thone if he is able to stay for a few minutes.

Mr. English?

Mr. ENGLISH. Thank you, Mr. Chairman. Mr. Feltner, this morning in your testimony you made the statement that you felt that we should not tamper with the grading system with regard to wheat. Is that correct?

Mr. FELTNER. That is not quite what I said or what I meant to say. Certainly the grading system is of concern to all of us, and I pointed out that it is under continual review, and it might have well been appropriate for this committee to suggest that we take an extra hard look at it or do something special.

I just think it would be inappropriate for the Congress to try to legislate the grades themselves. I think it is something that is a very inflexible procedure really. There are times when grades need to be changed, and this is something that should not be legislated.

Mr. ENGLISH. This is exactly the point that I wanted to raise because I know in my own district I have the reports between the inspections that are made at Enid, Okla., and what inspections are made at Houston, and in one shipment of 39 cars, we have only 5 percent agreement on what Yellow Hard Wheat is. On a 63-car shipment, we only have 29 percent agreement. Out of a 20-car shipment, we only have 25 percent agreement. The thing that strikes me, and I am sure you have heard of this problem in Oklahoma with regard to exactly what Yellow Hard Wheat is, is why do we even have a classification for Yellow Hard? What does color have to do with the amount of protein that is in the wheat? Can you answer that?

Mr. FELTNER. I would like to refer that question to Mr. Galliart if I may.

Mr. GALLIART. Historically, the subclass in Hard Red Winter Wheat has, in most of the classes of wheat, been an indication, a very rough indication, of quality or protein. There is a rough correlation. If I had my way today, I would do away with subclass in Hard Wheat because subclass is very difficult for an inspector to analyze.

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It is very difficult to correlate the subclass findings of one inspector against the findings of another inspector. But at this point in time, it still is a rough measure of quality, and we have nothing available to replace it. We are looking at protein to replace subclass. We are having a problem with respect to a replacement because protein, as it is analyzed today, is done by the so-called Kjeldahl system.

It takes about 2 hours to run a Kjeldahl test for protein. It takes a chemist or specialist to run the test. We are looking at a new device now that looks very satisfactory to us. Hopefully one day in the not too distant future, it will be the kind of device we can adopt for protein tests. Tests that can be run by a licensed inspector or untrained person. All he has to do is load a cell, press a button, and get a printout.

Mr. ENGLISH. Isn't it true though that color of wheat in trying to determine quality is a much less accurate measurement than a laboratory test?

Mr. GALLIART. Absolutely.

Mr. ENGLISH. Then why do we continue to use the color instead of laboratory test as far as the grading of wheat? The problem I am getting at is this: We have a situation in my district, and it may be in Mr. Sebelius' district in Kansas, it may be on into Nebraska—I am not certain—but the thing we have gotten into in Oklahoma is we had a tremendous amount of rainfall last year. We have had in effect what the chemists in Oklahoma and Enid, for instance, are saying is bleached wheat.

In other words, the only difference between quality of that wheat and the quality of wheat they produced last year is that it has a bleached color due to the moisture content and those farmers down there are being docked because of this and it is costing farmers in Oklahoma millions of dollars. The thing I want to ask is why do we continue to use color when we have laboratory tests available to us? Why do we continue to use that color factor?

Mr. GALLIART. At this point in time we are running a series of tests in our laboratories to confirm or deny the tests that you are talking about to see if that is a factor. We still recognize there is some correlation between subclass and quality. We are looking at it. It is very possible we will make some changes after we finish our study. That is the best I can offer.

Mr. ENGLISH. It is my understanding now in the 1950's that you changed from a 25-percent DHV up to a 40-percent. Why was that change made?

Mr. GALLIART. I am not sure I can tell you why it was changed. There isn't much in the history to give an indication of why it was changed. Basically the idea was to upgrade the grain, making the limitations a little tighter because it was still recognized that a subclass, in some rough measure, was an indication of quality.

Mr. ENGLISH. Basically what we are saying here is in the 1950's we became even more reliant upon color than we have previously; is that correct? Before the 1950's we graded on a 25-percent basis. Then in the 1950's we stretched it up to 40 percent which places even more reliance on color; is that right?

Mr. GALLIART. That is right.

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Mr. ENGLISH. Wouldn't it be in the interest of the American farmer in particular and to the world generally, since I think you will agree an awful lot of buyers around the world still feel like whenever it is classed as yellow hard that they are still talking about the old 25 percent—in other words, it is below that 25 percent; isn't that correct?

Mr. GALLIART. That is right, but you should take into consideration that a buyer over in India, when he looks at a handful of yellow wheat, is stigmatized. It doesn't make any difference whether we grade it yellow hard or not. The fact that it is yellow kernals stigmatizes it. He think that the wheat is low quality. I think the Oklahoma and Kansas people have done a good job in the last couple of months educating the buyers about the quality.

Mr. ENGLISH. Doesn't it still have the stigma on it, and most foreign buyers believe that that yellow hard classification in effect means 25 percent instead of 40 percent?

Mr. GALLIART. That is right. I think that is right.

Mr. ENGLISH. Under the conditions that you are talking about since we do have laboratory tests available to us, and evidently you are on the threshold of having a breakthrough as far as the DHV factor is concerned, and being able to test for protein and having some determination, wouldn't it be in the interest of the foreign buyers as well as the American farmers to switch back to that 25 percent until you have a more reliable test and then remove the yellow hard altogether?

Mr. GALLIART. We will have to make a decision on how we treat subclass when we finish our tests and examine the results of the study. Whatever we derive from the results of the study will be used to make a decision on it.

Mr. ENGLISH. I see, Mr. Chairman, that I have exceeded my time. I do want to say though that I am going to propose that we do include this in this bill and that we do go back to the 25 percent because, as I said, it is costing the American farmers, particularly Oklahoma farmers and perhaps Kansas farmers, millions of dollars until you try to come up with something that is more reliable. I thank you, Mr. Chairman.

The CHAIRMAN. Mr. Bergland?

Mr. BERGLAND. Thank you, Mr. Chairman.

Mr. Secretary, have you had any complaints from foreign buyers about the quality of grain delivered on export contracts?

Mr. FELTNER. Yes, there have been complaints over the years.

Mr. BERGLAND. Has there been any change in the numbers of complaints in recent years as compared with years past?

Mr. FELTNER. There have been more complaints in some years. Last year in particular I think it was a year where because of difficulties in harvest and some on the quality of our crop was not as high as it has been at other times. Mr. Graziano, would you care to comment on that?

Mr. GRAZIANO. One other thing we have noticed with the increase of the publicity regarding the inspection of grain, short weighing, misgrading, is that as the number of foreign buyers increased, the number of complaints increased, and we thought that had a direct effect on the increase in the number of complaints. I personally was contacted by some foreign buyers last year after we announced our

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indictments and were given some complaints. We don't know how much escalation there was, but obviously there was some.

Mr. FELTNER. Mr. Bergland, we note the correlation between the number of complaints and whether the price is going up or down. In general if the price of grain is going up, we will experience more complaints because of an effort on the part of the buyers to beef about the price they have to pay.

Mr. BERGLAND. Have any foreign buyers questioned the adequacy of U.S. inspection procedures and the validity of U.S. inspection certificates?

Mr. GRAZIANO. Yes, sir, that is true.

Mr. BERGLAND. Has there been any change in the frequency of those complaints in recent years?

Mr. GRAZIANO. The records we have been able to assemble over the last 2 years indicate an increase above what had been reported previously, but as to the amount of the increase, I cannot speak to that.

Mr. BERGLAND. When a foreign buyer files a complaint with the Department, what procedure is invoked?

Mr. GRAZIANO. Normally, he can file it directly with the seller or he can inform the U.S. agriculture attaché at the embassy and the agriculture attaché will forward his complaint to the Foreign Agricultural Service or the AMS and it is handled in that manner.

Mr. BERGLAND. What happens then?

Mr. GRAZIANO. Well, normally they take a sample and they come out with a finding and report their finding, sometimes directly to the buyer, sometimes through the agricultural attaché, back to the complainant.

Mr. BERGLAND. Of those complaints that have been filed and ultimately resolved, how many have been found in favor of the foreign buyer?

Mr. GRAZIANO. I cannot speak to that; perhaps Mr. Galliart can.

Mr. BERGLAND. Is it a substantial number?

Mr. GALLIART. I am not sure that I can address the question. In most cases, we find when we review the analysis that is made in this country that we, in our Federal supervision, generally agree with the inspector's findings. In those cases where we don't—and I would suspect that is less than 10 percent—we submit that information back to the Foreign Agricultural Service, tell them what happened, and what we found to be wrong. That is the extent of it.

Mr. BERGLAND. Mr Secretary, how many persons are involved in the private inspection industry as inspectors?

The CHAIRMAN. I think this is a good occasion to recess the committee for 10 minutes. There are two bells, signaling the final passage of H.R. 5620. This is the final action I understand today and so we will not be again interrupted and when members return, I think we will have an opportunity to question without additional interruptions.

Mr. BERGLAND. Mr. Chairman, to follow on that question, I would ask the Secretary the numbers of Federal supervisors in the inspection business and the number of State inspectors so they can be prepared when we get back.

[A brief recess was taken.]

Mr. BERGLAND [presiding]. The committee will come to order.

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Chairman Foley has been detained and asked if I might assume the Chair.

Mr. Secretary, the question to you before we were called out was the number of private inspectors engaged in the business. Can you tell us?

Mr. FELTNER. There are 400 inspectors in the private sector and about 1,200 samplers in the private sector for a total of 1,600 employees in the private sector.

Mr. BERGLAND. Would you define for the record the distinction between a sampler and an inspector?

Mr. FELTNER. A sampler is a person who actually takes the samples of grains from the containers that they may be in, either a railroad car or a barge or whatever, and prepares the samples for inspection.

The inspector is the person who actually dose the grading and who assigns the U.S. grade and assigns the certificate.

Mr. BERGLAND. Do you know what the total revenue collected by the private inspectors for services rendered?

Mr. FELTNER. Approximately $20.5 million.

Mr. BERGLAND. How many Federal supervisors are there now? Here again make a distinction between a field supervisor as opposed to an administrator who has an office close to Washington engaged in other activities.

Mr. FELTNER. There are 174 people at the supervisory level, but approximately 40 percent of their time is spent in appeal work or doing appeal grades. These men in the field who are called supervisors do really two things: They do supervision of the State and private inspection agencies and the same people also do appeal inspections. So we are talking about roughly 100 man-years that would be involved in supervision.

Mr. BERGLAND. Is any fee assessed for their services?

Mr. FELTNER. Not for supervision. There is a fee assessed for the appeal inspection. When we do an appeal inspection, there is a fee assessed.

Mr. BERGLAND. How much money is derived from that source?

Mr. FELTNER. Approximately $2 million in fiscal 1975.

Mr. BERGLAND. How many State inspectors are there in the United States?

Mr. FELTNER. There are 400 inspectors and about 800 samplers for a total of 1,200 State employees.

Mr. BERGLAND. Do you know what the total of the fees levied for their services might be?

Mr. FELTNER. About $9.5 million.

Mr. BERGLAND. In your analysis of the bill H.R. 8764, which Mr. Smith from Iowa and myself and others have introduced, you indicated that the cost is about $40 million and it would involve 2,626 persons of which 1,426 would be Federal and 1,200 State. From what source did you derive that information?

Mr. FELTNER. It was on the basis of an analysis that we did in the Department.

Mr. BERGLAND. The 1,200 State inspectors you would attribute to this bill are the same as the number currently employed by States?

Mr. FELTNER. That is correct.

Mr. BERGLAND. The difference comes in the Federal and private totals currently as opposed to a Federal-State system in which you would identify about 1,200 people as Federal employees?

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Mr. FELTNER. Yes.

Mr. BERGLAND. Which is somewhat less than the number currently involved in both Federal supervision and State inspections, including the samplers? In fact, there would be fewer people involved in the State-Federal system as proposed by H.R. 8764 than in the total numbers now working in the industry.

Mr. FELTNER. I will have to take a look at that, Mr. Bergland. I am not sure what the answer is.

Mr. BERGLAND. Mr. Secretary, we will go to other members of the committee. I see my time has expired. Perhaps we can resume this discussion after the others have been heard. Thank you, sir.

Mr. FELTNER. All right.

Mr. BERGLAND. Mr. Krebs?

Mr. KREBS. Mr. Feltner, I want to lay to rest any suspicions that I feel that being on the private payroll is necessarily a guarantee against mismanagement or corruption. By the same token, let me read part of your statement to you—the last sentence on page 6, where you say:

"We do not feel that they are in the long-run interest of consumers or the grain industry in general." You then later on go on to say on page 7 that the elimination of the private agencies is not the will of the administration.

I wonder whether you would be kind enough to tell us the basis for this conclusion that I just read. Why would it not be in the best interest of the Nation to eliminate private inspection companies in light, I might add—if you will bear with me one more minute—in light of the first couple of sentences in paragraph 2 on page 5 where you really seems to summarize the conflict of interest situation in what I feel is a very concise and accurate manner? Why do you still feel that you would like to have what I consider to be a prepetuation of a built-in conflict of interest situation by leaving it under the same type of management as we have had up to now?

Mr. FELTNER. Mr. Krebs, we assume, and I believe very strongly, that by taking the actions proposed in our legislation here we would remove this conflict of interest. If that conflict of interest is no longer there, we would have, we feel, a system with integrity, and when I say that it is not in the long-run interest of consumers, I don't think it is in the long-run interest of consumers to have any more Federal employees than we have to have, and if we can take the system that we have now, make appropriate changes in it that will bring about a degree of intergrity that we all agree has to be there, then I think we are all better off if we do it without having it to do it with Federal empolyees.

Mr. KREBS. Let me ask you this—and if this sounds as if I am challenging you, it isn't intended—I wonder whether you can give me an example of a similar system in any of the Western democracies? Do you know any other country—England, France, Germany, Australia?

Mr. FELTNER. On the grain inspection system?

Mr. KREBS. Where grain inspection of this kind is left in the hands of private entrepreneurs?

Mr. FELTNER. I don't know offhand of any inspection system like this.

Mr. KREBS. Does any one of you gentlemen know that? Let me ask you this——

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Mr. FELTNER. This is basically an American system, a U.S. private-enterprise system. I guess it is unique.

Mr. KREBS. Again I am sorry for the manner in which I am asking this—I wonder whether this approach, which strikes me frankly as a very dramatic sort of approach (which I think is indicative of the leadership of the Department during the last two administrations) whether this is not really a perpetuation of a dogmatic attitude towards this type of a problem. I really fail to comprehend why, in light of what I said a couple of minutes ago about the very articulately presented reason for not having it in the hands of private entrepreneurs, your Department still persists in leaving it in the hands of the same element.

Mr. FELTNER. Well, the issue as far as I am concerned is not really whether it is private enterprise, but whether it is private enterprise without a conflict. Again I would say if there is a conflict of interest, that should be removed, no question about that, and if that can be removed and if that results in an honest system, or a system with integrity, then I see no reason why we should change.

Mr. KREBS. I think you are absolutely right when you say that the issue is conflict of interest, rather than whether it is private enterprise. I agree with you on that. But it appears to me that by choosing private inspectors you are really asking for trouble. I think the chance for conflict of interest is much greater than it would be if you had a governmental entity doing the inspecting, whether it be State or Federal. Previously I asked you about other countries. Can you give me another example in this country where this type of function is performed by private enterprise? Isn't the reputation of the entire American economy at stake here? Do you really feel that this is something that should be left in the hands of private enterprise rather than in the hands of those who are responsible to the electorate?

Mr. FELTNER. Yes, I do if we could institute proper safeguards, and I think we can. I think what we proposed would provide safeguards. Whether there is any other system in any other segment of the economy that has this kind of a system, I don't know. I don't know how oil is inspected, for example. There are private firms involved in the inspection of petroleum and petroleum products, but I really am not familiar with exactly what they do or how it operates. But I do know that there are private firms involved in that industry.

Mr. KREBS. Thank you, Mr. Secretary. My time is up.

Mr. BERGLAND. Thank you, Mr. Krebs.

Mr. Bedell?

Mr. BEDELL. Yes, Mr. Secretary. As you know, the first time we had hearings in regard to packer bonding somebody from your department came over and testified that you were opposed to all the bills on packer bonding and through correspondence back and forth you finally furnished the information which indicated very clearly that your department had strongly supported this legislation and that the Department of Justice had opposed it and then finally your man came over in opposition to it. Is this a correct statement of what happened?

Mr. FELTNER. Yes.

Mr. BEDELL. My next question is Mr. Smith indicated there was a similar situation in this case. Is Mr. Smith correct or incorrect?

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Mr. FELTNER. There is some similarity but it is a different kind. It is really a different situation. In the packer bonding issue that you mentioned, I think there is an issue whether you are for packer bonding or you are opposed to it, one or the other. In this instance that we are talking about right here we are talking about a wide range of alternatives for reforming the grain inspection system. It is true that the one that we initially indicated a preference for is not the one that we are proposing to you now, but that does not mean——

Mr. BEDELL. Is that because of the feelings or rulings of someone other than within your department?

Mr. FELTNER. Obviously that has developed in concert with other Federal agencies including OMB who has been mentioned here.

Mr. BEDELL. So it is because of that then.

Mr. FELTNER. One of the things that is difficult and I wanted to point out this morning is that there is no final position until it is actually sent forward to the Congress. I view this process as being one of developing alternatives and exploring alternatives, and we may indicate a preference for one and as a result of subsequent analysis by our own people or by OMB or by some other Government agency or by the Congress——

Mr. BEDELL. But you have indicated this was not by your own people. This was because of others you felt you should change your standard from what you indicated to me just a minute ago. Is that correct?

Mr. FELTNER. I say that other agencies had a hand in this but it was also as a result of further analysis in the Department as well.

Mr. BEDELL. But it was because of something that other agencies had to say that helped to cause you to change your mind.

Mr. FELTNER. That helped to cause it, yes sir.

Mr. BEDELL. You see, the problem we face is that when you come over we look at you people as the people who have the knowledge in these areas and when you come over and testify we have to presume you are testifying from knowledge that you have, and then when we find these things happening, especially when we found like the packer bonding it had to do with a lawyer who didn't know anything about it in the Department of Justice, it kind of shakes our confidence in how we should go on this.

In regard to the *Alabama* case which was mentioned by Mr. Mezvinsky, he told us he got the information from your department that there was a violation and that there was at this time a violation. Was he correct in what he said there?

Mr. FELTNER. Essentially yes, that is right.

Mr. BEDELL. Do you plan to take action or do you not plan to take action?

Mr. FELTNER. We do.

Mr. BEDELL. When?

Mr. FELTNER. As soon as we can.

Mr. BEDELL. Would that likely be within the next 60 days?

Mr. FELTNER. We will be involved in looking into it in the next 60 days. Whether final action will take place in 60 days I am not sure.

Mr. BEDELL. If we go back to page 5 of your testimony about which Mr. Krebs spoke, you say: "We recognize that there are inherent con-

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flicts of interest between the industry and non-State official inspection agencies. The pressures that can be brought to bear by the grain industry on the licensees employed by such agencies can reduce the objectivity of the licensees when performing official inspections. Failure to yield to such pressures could affect the salaries or the employment of the licensees."

I say that is a very accurate statement. I think it is particularly meaningful in view of the fact that in New Orleans it is my understanding that there are cases where one inspection agency serves one particular grain company and that is their only customer and that is the only inspection company that serves them, whereas if that grain company were to cease to use their services then this inspection agency would be out of business.

I concur completely with what you say. I think it has been very well stated. But then you go on to say that the answer to this is to keep that company from having any stock ownership in it, and stock ownership has absolutely nothing to do with the pressures that we are talking about here in these first six lines of this paragraph because those pressures come, as you say, from affecting the salaries or the employment of the licensee. And I would like to ask you what you plan to do to correct the situation that you acknowledge here as far as the salaries and the employment of the licensees are concerned?

Mr. FELTNER. You are referring specifically to the situation where there is one grain firm and one inspection agency?

Mr. BEDELL. That is one of the specific things I am referring to, yes.

Mr. FELTNER. Well, one of the things that we have acknowledged needs to be done is to have greater supervision of the inspection firms or the license inspection agencies and we feel that this is one way of helping alleviate the situation.

In our proposal we are significantly increasing supervision.

Mr. BEDELL. Do you agree that the removal of stock ownership would not in and of itself effect the failure to yield to such pressures which could affect the salaries or the employment of the licensees? The stock ownership does not have to do with that problem? Would you agree with that?

Mr. FELTNER. No; it very definitely could have to do with that if there is joint ownership of the two.

Mr. BEDELL. If it had to do with the salaries or the employment of the licensees you feel?

Mr. FELTNER. Yes, sir.

Mr. BEDELL. In what way?

Mr. FELTNER. If you have the two firms, the grain firm and the license inspection agency, owned by the same people or joint ownership here, you have a very great lever on the employees of that firm.

Mr. BEDELL. You feel you have more lever than if Mr. Fithian works for me, he is dependent completely upon me for his business, and if I want to say that I am not going to continue to employ him, that he is completely out of business, has no other employment, doesn't have any other work, you feel that ownership affects that relationship, do you?

Mr. FELTNER. Certainly. You know, we are talking about two separate problems.

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Mr. BEDELL. That is my point. We are talking about two separate problems and my point is that the answer you gave to solve the problem in my opinion has absolutely nothing to do with the problem.

The problem has to do with the fact that if I am one person working for another person, completely dependent upon that person for my employment, then I better do what he wants me to do if I want to work for him. And you acknowledge that, it seems to me, very clearly in what you say here, and then you say the way we are going to solve that problem is by not letting me own stock in his company and I am here to contend that that problem exists whether I own stock in his company or not.

Mr. FELTNER. I am trying to see if there is anything in the testimony that refers specifically to the situation where there is one inspection firm and one grain company.

Mr. BEDELL. It does exist?

Mr. FELTNER. It does, but you are arguing that the solution we have offered does not fit the problem that is described. I am not sure that the problem you have outlined is described in the testimony.

Mr. BEDELL. It seems to me that is exactly what you say when you say failure to yield to such pressures could affect the salaries or employment of the licensee. It seems to me whether it is one person working for one or two, if I am dependent on the person who hires me for my employment that person has leverage over me. I'm sorry I have taken too long.

Mr. BERGLAND. Mr. Secretary, perhaps if you discover the answer to the gentleman's question, you can submit it in writing.

Mr. FELTNER. I will be happy to.

Mr. FITHIAN. Secretary Feltner, I am happy you have taken the amount of time you have here today. I think this demonstrates some real interest on the part of the Department. I would have to say for the record that since we have now run into the same phenomena on numerous occasions, most recently in another context with the Interior Department and Park Service people testifying before another committee and telling me quite clearly that they were unable to say what their best judgment had prompted them to say, I have the feeling in listening to the Secretary yesterday and in fact a question I asked him yesterday was, are you doing all you would do if you had no constraints from other agencies with regard to the grain scandals?

While Secretary Butz is a longtime friend and acquaintance of mine and is a very articulate person, I clearly discerned that the Department is not free from outside constraints in action on this case.

I regret that because as Mr. Bedell has sketched out here we cannot get at the professionalism at the table today so we have to be rather superficial and do the best we can for the American people. I would remind you of the charge to the Department of Agriculture to promote the well-being in agriculture in this country and that is your responsibility, not to OMB. Your responsibility to a committee of the Congress charged with a responsibility and oversight in dealing with oversight affairs must also be clear.

I would like to delve into some parts of your testimony. Before I do, I wonder on the basis of your professional judgment if you can

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tell me how you think the Europeans or our purchasers view the credibility of the American system of inspection as, say, compared to the Canadian system or any other you would like to take or you can take them all collectively in the Western Hemisphere. What is your general best judgment as to how the European buyer views the work we are now doing in the American inspection system.

Mr. FELTNER. Let me make a fairly general comment to that if I can in response and then I will ask one of my colleagues to respond in more detail. I think we need to keep in mind that while we have problems in our grain inspection system, and everybody acknowledges that, that overall we have had a pretty remarkable degree of success and that in general the Europeans and other buyers have been very well satisfied with the service and the grain and other products they have received from the United States.

Now, again, there are problems, but let's not overlook the fact that we are shipping $22 billion worth of complaints. I can assure you of that.

As far as our system compared to the Canadians or some other system, I think Mr. Galliart can comment.

Mr. GALLIART. The foreign buyer looks to price first.

Mr. FITHIAN. Price of clean grain as compared to price of grain that is 5 percent diluted clearly shows there is a price factor consideration. But the amount of waste and chaff you have in the grain determines the price of what you are really buying to a significant degree.

Mr. GALLIART. That is right. I think the major complaint from our foreign buyers have been foreign material and infestation over the years. I am not positive of the figures, but I think last year notwithstanding, our complaints ran somewhere around 10 a year out of about 8,000 ship lots per year. Many of them, as I indicated, involved infestation. Some of them were not all that valid. In our review we find that some buyers complain about their finding one insect, in a ship lot or in their examination.

As far as the Canadians are concerned, I cannot address that. Our Canadian friends tell us that they problems like we have problems in this country with respect shipments.

Mr. FITHIAN. My general impression, having talked to a few foreign purchasers, is that the confidence in our system, not only in the system of inspection, I might add, but the confidence in the reliability of the course because of our export controls from time to time has put us in a serious disadvantage and if they have their choice they are going to buy it somewhere else.

Let me ask rather quickly: The testimony of Congressman Smith this morning indicated that the ratio of supervisors of one to two, one supervisor to every two inspectors seemed like an awful lot of deadweight to him. I wonder if Secretary Feltner could briefly justify going that route. It seems to me that we are not going to get there.

Mr. FELTNER. I will be delighted to justify or clarify this matter. With all due respect to Mr. Smith, I think he is misinformed. We have a total of 174 Federal supervisors. As I indicated a moment ago, only about 60 percent of their time is spent in supervision. So roughly 100 man-years are spent. They are not supervising only the inspectors in the private industry. They are supervising the inspectors and the samplers in both the private and State sectors. So you have approxi-

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mately 100 man-years of supervisors supervising 2,800 man-years of inspectors and samplers. So it is a ratio of 1 to 28 and not 1 to 2. That is at the present time.

Mr. FITHIAN. Let me not pursue this further because I see the light is on. I would like to ask one more question with your indulgence and this is an entirely different subject. But would you oppose an amendment to this bill, whatever bill we take up, which would prohibit members of the USDA who have been with the grain inspection system from leaving the Government and taking employment with grain companies for a period of time, say 5 years? I am talking about the well advertised revolving door syndrome in which we bring in experts from companies, train them in Government ways and then they depart to well-paid salaries with the varied groups they have been charged with inspecting. I am particularly concerned about this in my position on the small business committee but I am considering offering such an amendment to this bill.

I would like to know your reaction to it.

Mr. FELTNER. My personal reaction is that I would object to that kind of amendment simply from one standpoint I don't know how you could impose something like that in the grain industry and not do it in every other industry in the United States, how you prevent a lawyer from leaving the Department of Agriculture and going into private practice.

Mr. FITHIAN. That is only tangential to this. I operate from the theory that we have to start somewhere.

Mr. FELTNER. I would hate to see it there, if that were the start.

Mr. FITHIAN. Thank you.

Mr. BERGLAND. Mr. Grassley.

Mr. GRASSLEY. Thank you, Mr. Chairman. I asked a similar question of Congressman Mezvinsky and Congressman Smith. The question is: Will any of these bills work any particular hardships, especially financial, on the small country elevator and specifically would any of them, in your judgment, lead to any closings?

Mr. FELTNER. I know of nothing in any of these bills that would work a hardship on the small country elevator.

Mr. GRASSLEY. So at this point we are talking about when the grain is at the export terminal and not the country elevator.

Mr. FELTNER. That is correct.

Mr. GRASSLEY. For all practical purposes?

Mr. FELTNER. Yes.

Mr. GRASSLEY. Second, I would like to have some additional opinion from you on the sentence that begins at the bottom of page 7 that says:

> The intent of H.R. 8764 and the scope of the Department's responsibility under the bill are unclear with respect to the regulation of weighing and the supervision of weighing of grain and control of scales.

Now your point is that it is unclear, but you didn't really say whether you liked that part of the bill or not or whether you were for it or against it.

Mr. FELTNER. I guess I would answer this way, Mr. Grassley. I feel that there is probably a problem in the weighing area and there may very well be something that needs to be done, an action that needs to be taken on the part of the Congress to give some agency, USDA or whoever, additional authority in the area of weighing. But I would

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maintain that no one at this point knows exactly what ought to be done, partly because we do not know the extent of the problem yet. We are in the middle of an investigation here. Several agencies are investigating. I am not trying to duck the issue. I just think we are not ready to decide what ought to be done, if anything.

I would much prefer to see the weighing part of that taken up at a later date and I would be happy of course to work very closely with Congress on this. I just think we are not ready to do that.

Mr. GRASSLEY. Would that comment also extend to the parts of the bill that refer to giving some reward to the people who produce a cleaner product or sell a grain with lesser moisture in it than what would be standard like we will say selling beans for 11-percent moisture instead of 13 percent? It is the intent of our bill that there be some incentive and reward for that sort of production of good grain or grain with less foreign matter in it than what might be permitted? Would your comment in regard to weighing also apply to that part of the bill?

Mr. FELTNER. My comments would apply to the extent that Congress would legislate what the standards of grades themselves would be.

Mr. GRASSLEY. Well, it does give tremendous leeway to the Department, in fact, maybe more than Congress should in the way of writing rules and regulations. So it would. We would not be setting the standards. We are declaring a congressional policy that the standards be set.

Now, based upon that, what is your feeling?

Mr. FELTNER. I would have to take another look at exactly the language in that bill. Any encouragement that the Congress can give us to do a better job of setting and implementing standards, we welcome that encouragement. If there are particular directions, broad directions that you think we should go in or particular directions that you think we should research and come back and report to you on, this kind of thing, we welcome that.

Again I think the issue is just how far the Congress could go to saying specific as to what the grades ought to be. I think Congress ought not be very specific.

Mr. GRASSLEY. But at that point you do not feel as strongly about those parts of the bill being before the Congress as this part about weighing?

Mr. FELTNER. I would like to give you a written response to that if I may, if I can take another detailed look at the bill in question and respond, I would like to do it that way.

[Mr. Feltner subsequently submitted the following:]

The Department would be opposed to Section 20 of H.R. 8764.

The present wording of the U.S. Grain Standards Act provides ample authority for effecting changes of the grade standards to meet the needs of the grain industry, including producers, warehousemen, processors, exporters, and importers. Under the present standards and present inspection and certification procedures, clear identifications can be and are made of the different physical qualities of grain and, to this extent, the present standards encourage the production, conservation, and delivery of high quality grain. Because of the limitation of current testing methods, a clear identification of the different chemical or end-use qualities of grain cannot be made. Also, because of physical and economical limitations on the storage, handling, and processing of grain, it is seldom economically feasible to maintain the identity of each of the physical qualities that are identified in the inspection and cleaning processes.

It is not feasible to legislate by grade standards a reward for the production. conservation, and delivery of high quality grain. This is a contractual matter

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between buyers and sellers. Under the current standards for each of the grains, there is a No. 1 grade which is competitive in reputation for quality in the world market. The usual contract grade is No. 2.

The 180-day limit would not permit the making of changes in an orderly manner and would not permit substantial advanced notice to the grain industry which is needed to avoid unfairness to producers and to avoid serious disruption in the orderly marketing of grain in the cash and futures markets.

Mr. GRASSLEY. In regard to the statement on weighing, is it your guess that this would cost a tremendous amount of money to supervise?

Mr. FELTNER. In a broad generality, yes. But here again we do not know enough about it yet to know what it would cost. Obviously one extreme would be for Federal employees to do the weighing themselves. If you did that that would probably be the most expensive way. To supervise weighing would cost something less but how much less I don't know at this point. We will be developing an analysis on that.

Mr. GRASSLEY. As a further clarification on a question Mr. Bergland asked in regard to how many employees there were in the private inspection agency I think the answer was in the neighborhood of 400 inspectors and 1,200 samplers.

Mr. FELTNER. That is correct.

Mr. GRASSLEY. Are those the total employees of the 111 companies that reference was made to earlier or isn't there any relationship between those 1,600 people and the figure of 111 private inspection firms?

Mr. GALLIART. That is the total. An official inspection agency may have employees other than inspectors and samplers.

Mr. GRASSLEY. Then I did probably ask my question incorrectly. It is not necessarily the total number of employees of the 111 firms but for clarification we are talking about 111 firms involved.

For instance, in the bill that would do away with them we are talking about putting 111 firms out of business.

Mr. FELTNER. That is correct.

Mr. GRASSLEY. Working for these 111 firms are 400 inspectors and 1,200 samplers among many other employees.

Mr. FELTNER. Yes; that is correct.

Mr. GALLIART. The 111 includes 23 States, with the remainder made up of boards of trade, grain exchanges, and private organizations.

Mr. GRASSLEY. Would you please give that to me again? The 111 is arrived at how?

Mr. GALLIART. There are 23 States that operate official inspection agencies. There are 47 official inspection agencies operated by private, independent companies. There are 41 operated by boards of trade, grain exchanges.

Mr. FELTNER. When I gave you the figure of 111 I should have given you a figure of 88, the number of private firms involved.

Mr. GRASSLEY. Then the 400 inspectors and the 1,200 samplers would not include the employees of the 23 States?

Mr. FELTNER. That is correct, they would not. They would only be in those 88 private firms.

Mr. GRASSLEY. Thank you, Mr. Chairman.

Mr. BERGLAND. Thank you very much, Mr. Grassley.

Mr. SECRETARY. According to your analysis and your reports there are now about 2,970 people involved in the sampling, inspecting, and supervising, using the system now in effect.

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Your analysis of the Smith bill would provide for 2,626 employees doing the same service. The total numbers would be somewhat fewer in the Smith bill than currently are in place, presumably the cost would be somewhat less than the current cost because the Smith bill provides for a system of fees with which to pay for the sampling, inspecting, and supervision of those people.

So I think really that the cost or the burden imposed upon the taxpayer is really not material to this whole issue. What I think we ought to be discussing is what to do we need to do to protect the integrity of the program. I think the conflicts in the present system have been attested to and are rather well known.

It seems to me as the committee considers the proposition that conflict of interest is the central issue, we ought to be considering ways by which to protect the integrity of the program. I fear if we do not take affirmative action we will be in bigger trouble as time goes on.

Mr. FELTNER. I agree. The cost figure that should be estimated is the estimated total cost, private, State or Federal for any one of these options. The total cost influences the charges that are going to be levied for the inspection of grain. The higher the total cost goes, the more that must be charged per bushel for inspection. I think that is an important figure because that impacts directly back on the grain firms and ultimately back on the farmer. But also it is true that regardless of what kind of a system you have, the amount of appropriated funds that are needed can be regulated by how much you charge the users of the service. Theoretically, you could charge the total cost of the system to the users of the system and involve no Federal funds at all, whether you had an all Federal system or an all private system. But I agree with you certainly that the central issue is how do we get integrity of the system.

Mr. BERGLAND. Thank you.

Are there any other questions to ask of these experts? We don't want to take too much time, but we will recognize Mr. Krebs.

Mr. KREBS. There is one point raised on page 7 in the second sentence where you say, "In addition, this raises the question of the possibility of a federal obligation which Congress or the courts may feel is owed to the private agency as a result of such legislation." Are you talking about some sort of indemnification or settlement because of the termination of contracts?

Mr. FELTNER. I am saying there is an issue here. If you put 88 private firms out of business, what is the obligation if any, of Congress, the courts, the public to these firms?

Mr. KREBS. Are you talking about a contractual obligation or a moral obligation or what?

Mr. FELTNER. It could be both. How would it be contractual?

Mr. KEAST. There is a possibility of some legal obligation with companies with ongoing legal obligations for performing grain inspections.

Mr. KREBS. How long do these agreements run as a rule?

Mr. KEAST. There is no time designation.

Mr. GALLIART. We have no agreements with official inspection agencies. It is simply a designation that the official inspection agency receives and it is not in writing. It is something that was implemented back in 1960 when the act was promulgated that official inspection

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agencies would be designated as such to provide the service. We do not have an agreement beyond that.

Mr. BERGLAND. You mean you do not have a license, a document or a certificate of competence of some sort?

Mr. GALLIART. We license the inspectors but we do not license the official inspection agency nor do we enter into a written agreement with the official inspection agency. Our control is over the licensee.

Mr. KREBS. Let me get this straight, because we have some conflicting opinions here. Is it then the consensus among you gentlemen that you have no contractual relationship with these private inspection agencies?

Mr. KEAST. No written agreement, that is correct.

Mr. KREBS. What kind of contractual relationship, either oral or written, do you have with them?

Mr. KEAST. My understanding, though I am not that familiar with the specifics, subject to correction we designate the inpection agencies and the individual employees are licensed to perform inspections. The licensed inspections are employees at a designated inspection agency.

By virtue of the fact the designated inspection agencies have been in existence for a period of years and have continued to operate and thus may incur some legal right to continue in operation, though we don't feel this gives rise to any serious legal obligations. But it is something that Congress might consider since they may be putting 88 private firms out of business that had been dependent upon the inspection business in addition to any legal consequences there might be incurred.

Mr. KREBS. I hate to belabor the point, but I think it is something to be considered. The point you gentlemen raise on page 7 may possibly change somebody's mind here. I am going to ask you gentlemen once more, is there a written contract between the Department and any one of these inspection services?

I gather the answer is no.

Mr. KEAST. I understand that is correct, yes.

Mr. KREBS. Is there an oral contract with any of these inspection services?

Mr. KEAST. As I understand it, there would be no oral contract except the right to possibly continue in business due to having conducted business for a period of years. This would be a thin legal theory, but it is a possibility.

Mr. KREBS. Are you an attorney, sir?

Mr. KEAST. Yes.

Mr. KREBS. In your professional judgment, and on the basis of your educational and professional experience, do you feel that there is a cause of action that any of these companies would have?

Mr. KEAST. You understand, Mr. Krebs, I hedge due to the fact——

Mr. KREBS. I will withdraw the question. I have no further questions.

Mr. BERGLAND. Mr. Bedell.

Mr. BEDELL. Who was it that testified Europeans were very happy with the quality of grain they have been getting from us? How did you make that determination?

Mr. GALLIART. I don't know if I said very happy, but over the years we have not received that many complaints. I mentioned that last year notwithstanding——

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Mr. BEDELL. But the basis is the number of complaints you received.

Mr. GALLIART. Yes.

Mr. BEDELL. Have you talked with them about the problem?

Mr. GALLIART. We have talked with them.

Mr. BEDELL. Did they indicate to you that they were happy with the quality of grain that they had been getting?

Mr. GALLIART. We have received oral complaints from foreign buyers about the quality, yes.

Mr. BEDELL. I met with a group of foreign buyers in the Senate hearings with Senator Clark, and those people were very unhappy, to a man, with the quality of the grain, soybean, and soybean meal primarily that they have been buying from the United States. They told us that more than half of the contracts that they received were out of the specifications according to the contract, and they told us if they had the choice of buying soybean meal from the United States or Brazil, they would prefer to buy it from Brazil because they felt the quality would be more dependable. If you have information that would refute that or indicate otherwise, I think this committee is entitled to have it.

Mr. FELTNER. Mr. Bedell, we have nothing at all to do with soybean meal shipments. That does not come under the Grain Standards Act. We are aware of this particular group that you are talking about and the fact that there are individuals from time to time who complain about the quality of soybean meal. On the other hand, I have looked into that to some extent personally, and I find a foreign buyer of soybean meal can specify the quality that he wants to buy. He can specify the protein content, the fiber matter content. Our firms in this country are happy to sell that buyer any set of specifications that he wants to specify. As I understand what happens, a buyer doesn't necessarily always want to pay the price for the higher quality.

Mr. BEDELL. I think we are getting into something we need to discuss. They did have corn samples as well as soybean. They told us about the problems with corn also. They indicate that part of the problem was as they load the corn, they load it into the ships so fast that it cracks the corn, and they didn't want cracked corn. We say we do not have control of inspection of soybeans. Certainly this is one of our major exports. Soybean we do, but not soybean meal.

Is this a deficiency in our system? If there are complaints from the buyers, should we be concerned in this legislation with doing something about the problems that exist with soybean meal?

Mr. FELTNER. In my opinion, no.

Mr. BEDELL. Could you tell me why?

Mr. FELTNER. I don't think the complaints are that significant.

Mr. BEDELL. If they were, would you think we should address it in this legislation?

Mr. FELTNER. Not necessarily. There are many different kinds of agricultural products that are exported over which we do not exercise inspection control.

Mr. BEDELL. Do you agree that soybeans are one of our major exports in terms of grain exports?

Mr. FELTNER. Yes; they are.

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Mr. BEDELL. If we have the indication that those people who are buying at least the soybean meal portion of those exports feel the quality of the product they are getting from America is not equivalent to the product they are getting from other countries, then is it still your contention that we should not be concerned about that and should not do anything about trying to see that we indeed furnish that type of a quality product?

Mr. FELTNER. We have to be concerned about it, yes, if there are a number of people who are genuinely complaining and are not trying to beat the price down which frequently is what they are trying to do.

Mr. BEDELL. They couldn't be trying to beat the price down with Senator Clark and myself.

Mr. FELTNER. But they can create a general impression that the United States exports an inferior product. That gives them leverage in trying to beat down the price. That is just the name of the game. With my knowledge of soybean meal exports, I think foreign buyers can buy anything they want to buy. They can buy any protein level.

Mr. BEDELL. Their complaint was that they were not getting what they were buying. That would require some inspection, would it not?

Mr. FELTNER. I would think that through some sort of legal mechanism that there would be a framework for resolving that kind of conflict now.

Mr. BEDELL. What is that?

Mr. FELTNER. We can inspect soybean meal at the present time if a firm wanted to call us in and ask us to do it. Basically, what we do in a situation like that is certify that the specifications in the contract either are met or are not.

Mr. BEDELL. So you do inspect soybean meal now only at the request of the shipper?

Mr. FELTNER. It is not done under the Grain Standards Act.

Mr. BEDELL. Is there a reason why?

Mr. FELTNER. They are just not included in the Grain Standards Act. Soybeans are included, but soybean meal is not.

Mr. BERGLAND. Mr. Secretary, we want to thank you and your associates for being here today and providing the committee with your evidence and your position on this controversial and very complicated matter.

The committee will stand adjourned until 10 o'clock next Monday.

[Whereupon, at 3:35 p.m., the committee adjourned, to reconvene at 10 a.m., Monday, September 22, 1975.]

[The following statement of Hon. Albert H. Quie and the letter from Midcontinent Farmers Association were submitted to the committee:]

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TESTIMONY OF THE HONORABLE ALBERT H. QUIE
OF MINNESOTA
ON H.R. 8764,
AMENDING THE GRAIN STANDARDS ACT OF 1916
HOUSE COMMITTEE ON AGRICULTURE
SEPTEMBER 19, 1975

George Washington's farm at Mount Vernon was never very fertile, but the quality of the flour he milled and exported was never questioned. A tradition--much quoted--has it that barrels marked "George Washington, Mount Vernon," were accepted in the Islands without any inspection.[1] Buyers had Washington's own word for it, that his flour was as good in quality as any manufactured in America.

Abrupt changes in the American grain export industry have taken place. Reports of bribery, theft and conflict of interest in the industry have surfaced with increasing regularity. By September 16, 1975, 58 persons and firms have been indicted for bribery, misweighing, shipping of low-grade and adulterated grain or other violations.

The private grain inspection system that was designed to prevent these abuses has failed to do so. We are now being threatened with the loss of vital foreign markets. The U. S. Government has not undertaken the obligation to guarantee the integrity of the grain inspection system. If the United States is to continue to develop foreign agriculture markets, the integrity of grain grading, handling and shipping cannot be compromised.

The authority under which the law permits the Department of Agriculture to establish a grain inspection organization does not give proper assurance that the violations so far uncovered will not reoccur. For this reason, I urge the Committee to report to the House for enactment H.R. 8764, a bill establishing a cooperative federal-state grain inspection system to tighten the 59-year-old U. S. Grain Standards Act.

Under this bill, all export grain would be inspected by federal employees. Grain for use in American markets would be inspected on a voluntary basis by state agriculture employees. Private grain inspection agencies would be banned.

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[1] George Washington: Farmer, by Paul Hayworth, 1915, page 98.

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This bill also authorizes the Secretary of Agriculture to adopt rules to require the periodic rotation of federal official inspection employees and calls on states to rotate state inspection personnel. This new provision would help eliminate conflict of interest situations from developing.

The bill calls also for honest weighing of grain by mechanical device, with results available immediately to both buyer and seller. The measure also would, for the first time, permanently require private grain trade companies to register with the government and disclose full details of their ownership and keep records of their transactions for a reasonable period of time.

H.R. 8764 contains a conflict-of-interest provision declaring that no inspection personnel, state or federal, may hold financial interest or be employed by grain elevators, subterminals or other sectors involving the merchandising of grain. In addition, grain inspectors must maintain offices separate from those of grain trade interests.

The bill toughens penalties and makes illegal any act which threatens, bribes, or in any way interferes with federal or state grain inspectors. Grain standards would be improved under this bill by rewarding producers for high quality. New language requires that grain be "docked" for excessive amounts of foreign matter.

H.R. 8764 goes a considerable distance in cleaning up the grain inspection corruption so far uncovered. It is a tough bill. To have our foreign markets for grain cut off by dissatisfied foreign customers threatens our whole economy. In 1974, the U. S. exported $15 billion worth of grain. That was enough to pay for all our imports of agricultural commodities, and in addition, contribute some $5 billion toward balancing our international trading accounts.

Our volume of agricultural exports has been built upon our reputation as a dependable supplier. But beyond that, our customers, like George Washington's, have also looked to us as a supplier of

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quality products. The integrity of our official certifications have assured them that they were getting the grade and quality of commodities they paid for.

The American farmer, more than any other, depends on the whole world for his market. He should not be denied those markets for reasons over which he has no control. In fiscal 1974 the U. S. supplied:

85% of all the soybeans entering the export trade;

60% of all the feedgrains;

45% of all the wheat;

30% of all the cotton;

24% of all the rice.[2]

Bumper crops this year will mean that grains and other produce must find a new home in foreign markets. Assistant Secretary Richard Bell said August 21, 1975, that:

> "In the coming year, we will export almost 60% of our wheat crop, around a fourth of our corn crop, and about half of our soybeans."

The United States does not have a monopoly on world export markets; nonetheless, our grain exports often mean the difference between a trade surplus and a trade deficit. Our ability to produce fine, high-quality grain, is the key reason for overseas buyers knocking on our door. The quality of our exports cannot be compromised.

World confidence in U.S. grain inspecting procedures has already been undermined by corruption revealed in the private inspection system. While the Department of Agriculture and the Federal Bureau of Investigation jointly continue to probe allegations, it is necessary that we in Congress take a look over our shoulder to see the important progress other countries are making in improving their export sales. The Brazilians have suddenly become major exporters of soybeans. Our Canadian neighbors are the second major exporter of wheat. Australia is third. The latter two are widely

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[2] Co-op County News, by Roderick Turnbull, June 16, 1975

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respected in the world community for the integrity of their grain inspection system. Hearings conducted in the U. S. Senate this summer indicated that some buyers already prefer other countries' agriculture crops to the United States'.

Grain inspected for export, by law, carries a certificate on the grade, weight, type, and moisture content. The United States has not undertaken the obligation to guarantee the integrity of that certificate and a federal system--with the Department of Agriculture involved directly--is the only way to guarantee that system and insure the quality of grain inspection procedures.

Actual inspections must be beefed up. Even though the grain export business has jumped dramatically in the past 10 years--especially in the last three--the number of federal inspectors and on-site inspections has declined. Ten years ago the federal government employed 291 grain inspectors. It now has on the payroll 226, down 65. In the same period, the number of actual federal grain inspections has slipped from 176,000 ten years ago to just 90,000 in fiscal year 1975.

> "Our supervision is such that we supervise something like 2%--between 2 and 3% of the approximately 4 million inspections that are performed in the United States."[3]

The United States must tap its resources and provide the manpower so the world may depend on the integrity of our inspection system and the assurance of quality. H.R. 8764 would provide inspection manpower with the cost of direct and supervisory personnel being paid by those who export grain. Program administration costs would be provided by a direct appropriation from Congress.

The existing system has spawned an inherent series of conflicts of interest between non-state agencies and those who apply for inspection services. For example, employees of a private agency operating under the direction of a Board of Trade, or a Chamber of Commerce, whose members

[3] Dave Galliart, Director of the Grain Division, Agriculture Marketing Service, U. S. Senate hearings, June 19, 1975.

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are principally grain firms, are vulnerable to being influenced to certificate grain improperly. The grading of grain is important because its price is determined by its quality, and the quality is determined by the inspectors who check for damage, foreign material, protein, moisture content, and other types of grain mixed in with it. Private inspectors should not be examining the grain owned by the elevators and grain trade interests who employ them. As a result of the Agriculture Department and FBI joint investigations, 58 individuals have been so far handed indictments. All of them involve private inspectors. H.R. 8764 eliminates such inherent conflicts of interest.

In connection with this feature, my bill also authorizes the Secretary of Agriculture to require the "periodic rotation of federal official inspection personnel and to require each state to rotate state inspection personnel within the state." This provision is intended as one further step to prevent any conflict of interest. Throughout the series of investigations, U. S. attorneys found that relationships developed and interdependence came into play between inspectors, weighers and graders with the owners of elevators, subterminals and grain companies. This rotation feature is necessary to help prevent the development of close ties with grain interests.

Mr. Chairman, H.R. 8764 would tighten supervision of the grain inspection system. It is a cooperative--not coercive--federal-state inspection system designed to insure that domestic and world buyers get what they pay for. The present system of private inspection is outmoded. Some situations call for more, not less, government authority. This is one area where government regulation is truly essential.

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MIDCONTINENT FARMERS ASSOCIATION,
Columbia, Mo., September 18, 1975.

Hon. THOMAS S. FOLEY,
Chairman, Committee on Agriculture,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that your Committee will soon be conducting hearings and considering legislation to amend the U.S. Grain Standards Act in an effort to correct the grain grading and weighing discrepancies that have occurred at U.S. export elevators. We want you and Members of the Committee to know of our interest in this important matter and of our recommendations.

Midcontinent Farmers Association headquartered in Columbia, Missouri, is a general farm organization representing 162,000 farmers in Mid-Central U.S. Our policies are established by the delegates at our annual meetings. At the 1975 annual meeting held in Columbia August 4, 1975, the following resolution was adopted unanimously by the delegate body:

GRAIN GRADING AND WEIGHING

We favor fair and honest grain grading and weighing throughout the entire marketing chain from farm to export or milling.

This will promote grain sales and create confidence in grain markets. We deplore recent incidents of improper grain grading and weighing, including certification of ships for export as being ready for grain loading, when in fact, these ships still contained foreign materials harmful to grain. We do not condone the alleged fradulent acts on the part of some officials charged with making these inspections.

We urge USDA to review and strengthen the method of making these inspections as well as closer supervision of inspectors so that we can restore confidence in the grain industry.

At one time during my career I served as Commissioner of Agriculture for the State of Missouri, and during that time State legislation was enacted which placed grain inspection, grading, and weighing under the Department of Agriculture. In Missouri, which I am most familiar with, these grain grading and weighing functions are carried out by the State Department of Agriculture under the supervision of the Federal USDA. I would not profess to say that this is an infallible combination because during my term in serving as Commissioner I found upon at least one occasion where a State employed inspector supervised by USDA was accepting gratuities for the intentional misgrading of grain. We were, however, quick to discover this "skulduggery" and terminated the inspector.

We feel that the State-Federal combination of inspection is far superior to the private inspections now prevading in the State of Louisiana. This "mess" must be cleared up, and you are to be commended for taking a leading role in this accomplishment. We are strongly in support of proposals embodied in H.R. 8764 introduced by Congressman Smith and others as they relate to Federal-State inspection.

Please make this letter a part of the Hearing Record on this legislation.

Sincerely,

L. C. "CLELL" CARPENTER,
Vice President.

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U.S. GRAIN STANDARDS ACT AMENDMENTS OF 1975

MONDAY, SEPTEMBER 22, 1975

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The committee met at 10 a.m., pursuant to recess, in room 1301, Longworth House Office Building, Hon. W. R. Poage (vice chairman of the committee) presiding.

Present: Representatives Poage, de la Garza, Jones of North Carolina, Bergland, Bowen, Breckinridge, Nolan, Krebs, Hightower, Bedell, English, Sebelius, Thone, Symms, Jeffords, Kelly, Grassley, Hagedorn, and Moore.

Also present: Congressman Neal Smith of Iowa; Robert M. Bor, counsel; John Hogan, associate counsel; Fowler West, staff director; Eugene Moos, staff analyst; L. T. Easley, press assistant; and Glenda Temple and Susan Bell, staff assistants.

Mr. POAGE. The committee will convene, please. I regret to announce that the chairman is in the hospital this morning.

We are continuing the hearings on the U.S. grain standards, being concerned particularly with inspections.

We have a full list of witnesses and will continue for several days on this matter.

Our first witness this morning is Mr. Glen Hofer.

Mr. HOFER. Thank you, Mr. Chairman. I have two gentlemen with me as additional forces. On my left, is Mr. Ed Budnis, who is the general manager of Indiana Grains Export Elevator in Baltimore. On my right, is Mr. Les Burch, who is with Farmers Union Grain Terminal Association. He was for 20 years chief inspector of that organization and now runs one of their large local operations in Winona, Minn.

Mr. POAGE. We are glad to have these gentlemen. They will not make statements, will they?

Mr. HOFER. No; they will help with questions should the committee have any for us.

Mr. POAGE. Let me state right now for all the witnesses that it is our practice to hear the witnesses' presentations, and then we will ask all of you to return to the witness table for a period of questions and answers.

[The prepared statement of Mr. Hofer follows:]

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STATEMENT OF GLEN D. HOFER

VICE PRESIDENT - GRAIN DIVISION

NATIONAL COUNCIL OF FARMER COOPERATIVES
WASHINGTON, D.C.

September 22, 1975

Mr. Chairman, we appreciate the opportunity to express our views concerning proposed amendments to the grain inspection segment of the U. S. Grain Standards Act.

The National Council of Farmer Cooperatives is a nationwide organization of 119 regional, centralized and federated cooperatives and farm credit banks. There are also 31 state councils of farmer cooperatives represented in the National Council.

The Grain Division of the Council consists of 19 regional cooperatives, whose primary activities involve the storage, conditioning, processing and marketing, both in domestic and foreign markets, of all grains and oilseeds. In the 1973-74 crop year, their network of local and regional facilities handled 2.9 billion bushels of grain or approximately 40% of the total U. S. off-farm grain sales.

There have been three suggested general approaches to the issue of improving the U.S. grain inspection system.

1. Entirely federal system.

2. Combination federal/state system.

3. Combination federal/state/private system with much stronger federal authority.

The consensus from our membership is in general support of the third option, although those members operating where state inspectors carry out the primary inspection role (e.g. Washington - Oregon) find it an entirely satisfactory and trouble-free arrangement. Statistics show that all but a very minute percentage of grain in commerce moves through the current inspection procedures with dependable efficiency and honesty. However, recent distressing disclosures have revealed an urgent need to strengthen the United States Grain Standards Act in order to preclude further abuses of a system which has basically been acceptable to the grain trade.

From all accounts, it appears that the failure of people to resist felonious temptation is the root of the problem, rather than a failure of the system per se. Thus greater deterrent in the form of stiffer penalties should be an important step in remedial legi lation Such fraudulent activities as bribery, intimidation of inspectors or falsification of documents or records should be dealt with severely To what degree a trading firm is culpable for misconduct on the part of individual employees is an open question which leads to the proposal that official inspection service may be withheld from grain firms found in violation of the Act Not denying the need for stern sanctions against firms in violation, the question has been raised as to the implications of in effect, shutting down a firm's operations due to removal of inspection service. Given certain circumstances,one could speculate that the shutting down of a large export operation at a peak grain movement period could have a negative effect on other entities than the organization directly involved. Transportation congestion would be a possibility, failure of delivery on sales contracts could adversely affect customers -- in other words, the penalty might fall partially upon innocent parties.

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It has also been proposed, and there is strong supporting sentiment, that all connection between private inspection services and the various grain exchanges, chambers of commerce, etc. which in many cases are their sponsoring agencies, be severed. We agree that the conflict of interest inherent in the present relationship is impos ible to completely rationalize. We feel obliged to point out however that the overwhelming majority of these working relationships have operated successfully without reproach. Often the sponsoring bodies include processors and other receivers as well as shippers -- a combination which adds assurance of honest and equitable performance by the inspection service.

The availability of service is another aspect which should be considered when evaluating the private segment of inspection service. The flow of grain trade with its attendant demand on grain handling and transportation often creates urgent situations calling for inspection service on holidays or on off-hours and under less than idea conditions. The record of the private licensed inspection agencies in providing unusual service has been good. Without criticising civil servants or the record of any state or federal inspectors, one must still concede that the incentive to perform in such circumstances is not identical for private enterprise and government.

Our members were not enthused about proposals to go to an entirely federal system. Prohibitive cost estimates were one consideration but perhaps more important, one satisfactory aspect of the present system, with the federal government playing a supervisory role, has been the provision for appeal to a Federal Board in an instance where there is disagreement with a grade assigned by a licensed inspector. Although the same appeal recourse could be maintained under an entirely federal system, a question could be raised as to the effectiveness of having inspection and appeal of inspection both handled by the same agency.

Our members feel the placement of federal inspectors overseas, even though designed only as a monitoring function on a spot inspection basis, woul gradually weaken and eventually completely undermine the status of the certificate final as the basis for settlement on export transactions It has been suggested that the presence of overseas inspectors would in effect be a customer service. We feel it would constitute an open invitation for the overseas customer to question the validity of the loading certificate.

There is little doubt that enactment of any of the several proposed bills wi l result n an increase in the fee levels. Projections from our members ranged from 40% to 100%. It should be remembered that it is unlikely that the trade will absorb all of the increased costs. Some of the increase will undoubtedly be translated into lower farm gate prices or higher prices for end users and foreign customers.

Our members feel that the requirement of quarterly deposits by the inspection services on anticipated volume of fees would be unnecessarily burdensome and expensive and we oppose such regulation proposal. We would not oppose a requirement that all segments of the inspection system should devise a personnel rotation system wh ch would minimize the possibility of interference of performance by personal considerations.

Thank you for your attention, Mr. Chairman, and Committee Members. We hope our observations have been constructive and we are prepared to answer questions as you wish.

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Mr. POAGE. Thank you, Mr. Hofer. We will ask you to return for the questioning period.

Our next witness is Mr. Merlyn Groot.

STATEMENT OF MERLYN GROOT, DIRECTOR, AMERICAN SOYBEAN ASSOCIATION; ACCOMPANIED BY BILL KLINGS, WASHINGTON REPRESENTATIVE

Mr. GROOT. Thank you, Mr. Chairman. I have with me Mr. Bill Klings, who is the representative of the American Soybean Association here in Washington.

My name is Merlyn Groot. I am a soybean farmer from Manson, Iowa, and serve as president of the Iowa Soybean Association. I represent the American Soybean Association today as a member of its board of directors.

We have spent considerable time and effort, both in formal committee meetings and in informal discussions, concerning the problems of grain inspection and weighing, grade standards and quality, and the interrelated problems of the national economy, our balance of payments in foreign trade, and the general welfare of all consumers in this Nation.

I do not propose that a solution to the first set of problems will solve the second set of problems. But, I think it behooves all of us to realize the importance of farm exports to the economic health of this Nation.

Complaints from producers and their customers have focused attention not only on the inequities in the U.S. grading standards for soybeans, but also on the way in which these standards are applied and enforced.

Over 300,000 soybean producers are contributing their own funds toward building overseas markets for their product. That program has been so successful that over 50 percent of our production finds a market beyond our ports.

If we are to continue selling half of our production overseas—if this Nation is to continue exchanging soybeans for foreign gold—we must regain a reputation for providing products of uniform and excellent quality.

Mr. Chairman, just as more soybeans leave the Port of New Orleans than any other port in the world, more soybeans enter the Port of Rotterdam than any other port in the world.

I heard a man from Rotterdam say recently that he preferred to buy Brazilian soybeans for two reasons. First, Brazilian beans were cleaner than those they received from us. Second, he pointed out U.S. Government interference in export marketing has caused a lack of confidence in the United States as a reliable supplier. This man buys over 30 million bushels of soybeans per year from the United States. Thus, he knows what he is saying.

It is in the interest of rebuilding and maintaining a reputation for quality that the American Soybean Association recommends that any legislation on this subject contain the following provisions:

1. That all grain exported from this country be inspected by employees of the U.S. Government. These inspectors should certify the quality and weight of all grains shipped to foreign customers.

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Additional note in this is that we feel that the authority to supervise inspections and weights should be combined in one department authority and not fragmented.

2. We also recommend that USDA personnel be available to monitor grain upon arrival at foreign ports.

One complaint that we hear over and over again is in reference to extensive redtape and extreme delays in reaching an amicable settlement in cases of disputed claims.

USDA employees in ports of arrival would be of valuable assistance in solving this recurring problem.

We are not suggesting that all soybeans require day-to-day inspection at foreign ports, but personnel should be available for random monitoring and to service complaints. An inspector at a domestic port would also be inclined to perform more accurately if he knows that his work will be monitored.

One question that might arise in this section is that we feel that we would not envision any additional cost in this in that the fees of inspection would be included as a part in this provision.

3. We also strongly suggest that all grain inspection personnel be rotated on a random basis from one export terminal to another in an effort to reduce the possibility of collusion.

We are not suggesting that all, or even most, of the grain inspectors are subject to wrongdoing. However, we recognize that all human beings are fallible and that undue pressure can be brought to bear upon a person to alter his behavior.

4. We recommend that State inspection agencies be responsible for certifying the quality of grain sold within the domestic market, if those State agencies are properly equipped and staffed.

Federal inspectors should be available to provide necessary services if the State agency is not performing satisfactorily, or in the case of disputed interstate shipment.

Also, there may be some States that are not interested in performing inspection service and there may be some need for authority here also from the Federal level.

5. I think most bills presented in reference to the grain inspection problems require different penalties for bribery of inspectors or supervisors and/or acceptance of such bribes. We fully support this part of all the bills and actively request that it be included in final legislation.

I would like to devote the remaining part of my time to a problem that has not been fully recognized. That is the antiquated standards by which soybeans are graded and sold. These standards have led to and even encouraged the deplorable situation we face today in reference to the undermining of our reputation as an international trading partner.

The current standards provide an incentive for adding foreign material, thus decreasing the quality. The standards should provide an incentive to at least maintain quality, if not to improve it.

In this country, 70 percent of the soybeans sold from the farm level have 1 percent or less foreign material, which means they are No. 1 beans when they leave the farm. Why, then, do 88 percent of the soybeans exported go as No. 2's, which have 2 percent foreign material?

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Clearly, something is happening to the beans between the time they leave the farm and the time they are loaded into ships for foreign ports.

Therefore, we recommend that fixed maximum percentages of foreign material be eliminated from the grade standard and that the presence of foreign material affect the price only as a dockage. This should go a long way toward eliminating the incentive to deliberately add foreign material.

We are also concerned about the lack of a premium system for low-moisture soybeans.

The present system provides for discounts if moisture is above certain levels, 13 percent for No. 1 beans and 14 percent for No. 2. But there is no premium offered for soybeans with moisture levels below those figures. Farmers view this as a gross inequity.

The blending of low-moisture beans with high-moisture beans provides a bonus for the buyer, but no bonus for the farmer who sells the low-moisture beans. The first buyer can buy 16-percent moisture beans at a reduced price because of the discount for moisture above 13 percent. He can then mix them with an equal amount of 10 percent beans, which cost the same as 13 percent beans, and come up with all No. 1 beans at 13-percent moisture.

The 10 percent beans are obviously worth more to him than the 13 percent beans because if he had mixed 13 percent beans with an equal amount of 16 percent beans, the moisture level would still be well above 13 percent.

We feel that if 10 percent beans are worth more to the buyer than 13 percent beans, the farmer should receive a premium for them.

Another bonus in buying low-moisture beans is that the buyer is saved the expense of drying the beans. But the farmer who sells the low-moisture beans is receiving no bonus for providing this economic advantage to the buyer.

Another point is the current test weight provisions in the standards. There appears to be no information available which would indicate the importance of test weights as an economic factor in the marketing system. We, therefore, suggest that test weights be eliminated as a part of the standards.

I think the marketing system must be allowed to blend different grades of soybeans to allow shipment of grains requested by the customer. However, permissible blending of other material to reach a statutory limit must be prohibited.

Gentlemen, I thank you for your time, and I hope you will see fit to implement American soybean farmers' recommendations as a means of correcting the problem in our international commodity trade. Restoring integrity and updating the grading system will be of great benefit to our foreign agricultural trade, to American farmers and to the Nation as a whole.

Mr. POAGE. Thank you very much.

Our next witness will be Mr. L. E. Vanderford.

[The prepared statement of Mr. Vanderford follows:]

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STATEMENT OF MEMPHIS BOARD OF TRADE

Jack McDonald, President
L.E. Vanderford, Vice President
A.E. Sax, Director and Past President
John T. Butler, Chief Inspector and Weighmaster

I am L.E. Vanderford, Manager of the Hughes Grain Corporation in Hughes, Arkansas. This statement is given in behalf of the Memphis Board of Trade, of which I am Vice President and for its subsidiary company, the Memphis Grain and Hay Association of which I serve as President. Cooperating with me will be Mr. A.E Sax, Director of the Memphis Board of Trade, Mr. Jack McDonald, President of the Memphis Board of Trade, and Mr. John T. Butler, Chief Inspector and Weighmaster.

I would like to point out, however, that this statement has the full support of the farmer-owners of Hughes Grain Corporation. These farmers who produce cotton, soybeans, grain and peanuts have had experience with government commodity grading, and with the grading services provided by the Memphis Board of Trade. Let me assure you that these farmers greatly prefer the service, the professionalism, and the consistantly good quality of the work done by the Memphis Board of Trade inspectors Since 1970, we have had a state-federal inspection system on peanut grading. We at Hughes Grain Corporation have found this state-federal system to be most unsatisfactory.

My Company has used the Memphis Board of Trade grades to buy on occasionally, but primarily we depend on the Memphis Board of Trade to protect this farmer company in its role as a seller of farm commodities.

The Memphis Board of Trade was organized in 1883 and is one of the oldest grain exchanges in the country Its membership includes commercial grain merchandisers, grain processors, soybean and cotton-seed processors, feed manufacturers, brokerage and commission merchants, banks, railroads, and country shippers Both buyers and sellers of farm commodities are members of the Memphis Board of Trade.

The Memphis Board of Trade established a grain and hay inspection department and standards of quality for grain and other commodities in 1885 When the Congress passed the U.S. Grain Standards Act in 1916, our inspection department became a designated official inspection agency under that Act. In 1962, a modern and efficient grain inspection station was built at a cost of almost $100,000. This was financed entirely by the Memphis Board of Trade.

The Board of Directors of the Memphis Board of Trade appoints a Chief Grain Inspector, a highly skilled professional, who has complete autonomy in the staffing and operation of the inspection department. The present staff of inspectors have an average of twenty-six years' experience in grain inspection. They have been individually tested and licensed by the USDA, and are re-examined every three years for competence. Their tenure is based solely on their performance as inspectors, with no regard given to their political affiliations.

The inspection department performs approximately 30,000 official inspections annually, on barges, rail cars, trucks, and submitted samples. Official inspection is furnished to anyone who desires it. We currently inspect grain for approximately 240 accounts, about equally divided between shippers and receivers of grain Service is provided seven days a week, twenty-four hours a day during harvest periods. The operation is financed from fees charged for the service. These fees are modest as the department operates on a non-profit basis. The territory serviced by our department includes the heavy grain and soybean producing area of eastern Arkansas as far west as the White River, and all of West Tennessee.

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Our licensed inspectors are supervised by employees of the USDA, who grade samples behind our inspectors daily to make sure they are accurate. Any interested party may appeal an inspection, and have tha lot re-inspected by the USDA. In the last two fiscal years, there has been an average of 178 appeals per year called on our grades. This is about six-tentha of one per cent.

We have studied the four bills you have under consideration, and while we have questions regarding several of the provisions of these bills, time limits me to one most important factor: Who shall be the agency for original inspections, and official weights for grains and soybeans.

We are opposed to Section 7 of Bill 9467, Section 2,5,6,7,13B, and 21 of Bill 8764; all Sections of Bill 8374, and all Sections of Bill 7442.

These provisions would, in effect, eliminate the Memphis Board of Trade as an original inspection agency. This would occur in spite of the fact that the Memphis Board of Trade has operated an inspection service for ninety years without criticism, a record that cannot be matched by any state, federal, or private inspection agency that I know of.

But more important, the Memphis Board of Trade can, and if allowed will, provide this same quality service for another ninety years at no cost to the taxpayer. We are confident that we can do this because of the nature and objectives of our organization. The Memphis Board of Trade is made up of persons who are vitally interested in a healthy, efficient farm commodity marketing system. The membership of our organization includes buyers and sellers, and companies who both buy and sell on Memphis Board of Trade weights and grades. Thus, we are interested only in the most expert, non-biased, consistant inspection system possible.

These buyers and sellers constantly compare the Memphis Board of Trade grades and weights with the results obtained by themselves on the same lots. This provides an immense amount of checking and counter-checking. Typically, the seller wi have his grades, the buyer will have his grades, and tbere will be the Memphis Board of Trade grades. If either the buyer or seller thinks the Board of Trade grade is in error he may call for a USDA appeal grade. It is interesting to note, however, that USDA appeal grades are called for less than one per cent of the time.

While we do not have specific information, it is clear that there have been very significant weighing and inspection problems at some ports These problems must be resolved and prevented in the future. The Memphis Board of Trade has a real interest in preventing these problems and supports appropriate action. More government supervision, stricter regulations, and heavier penalties for deviations seem right to us. We do not agree that all Board of Trade "type inspections should be eliminated because there have been problems in some Consider the difference between a port operation and the marketing of commodities in the Memphis area. At a port, the final buyer is likely to be thousands of miles away and very unlikely to ever be a seller in that same system of weights and grades.

In the Memphis area, we buy and sell under this system. I have told you that I rely on the Memphis Board of Trade primarily as a seller. I have with me today, a man who uses this system almost entirely as a buyer and another man who both buys and sells on Memphis Board of Trade weights and grades. Again, this points out that we have no interest except that weights and grades be as accurate as possible.

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In pursuit of this interest our membership gives complete autonomy in grades and weights to our chief inspector. Our membership, being made up of the buyers and se lers, are the best judges of what services are needed and when they are needed. This allows us to exerc se control for service and economy My experience has been that the Board of Trade provides grades when I need them for a reasonable cost. Any other system would likely be more expensive. But, gentlemen, the expense of weighing and grading is nothing compared to the expense incurred if these services are not available when needed, so that our crops may be harvested and moved into commerce. I have had to tell an irate farmer tha he must stop his peanut harvest because we could not get them graded. None of us here wants to extend that situation to grain and soybean producers in the Mid-south.

Congress must choose a system that will give us the best weights and grades possible, when needed as economically as is consistant with the above. In the Memphis area, the Memphis Board of Trade has done this, and with your permission, we will continue to do so.

We make the following recommendations:

1. That Boards of Trade who have proven to be able and willing to perform within the standards be allowed to continue to do so.

2. That the penalties for violations of the U.S. Grain Standards Act be increased to such extent that they would deter such actions in the future.

3. That U.S. Department of Agriculture field supervision of sampling and grading activities of designated inspection agencies be increased above the low levels of the recent past.

4. That U.S. Department of Agriculture establish research and development procedures with the purpose of long-range improvement of official inspection standards and equipment.

We thank the House of Representatives, Committee on Agriculture, for this opportunity to appear and to testify on behalf of the Memphis Board of Trade.

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Mr. POAGE. Mr. Vanderford, we thank you for being with us. We appreciate your statement, and we hope you and your associates can return for the questioning period.

Our next witness is Mr. Max R. Spencer.

STATEMENT OF MAX R. SPENCER, CHAIRMAN, GRAIN GRADES COMMITTEE, NORTH AMERICAN EXPORT GRAIN ASSOCIATION; ACCOMPANIED BY RICH PENNELL, MEMBER, GRAIN GRADES COMMITTEE; AND WILLIAM B. PENNELL, COUNSEL

Mr. SPENCER. May I make a minor correction. I'm here as a chairman of the Grain Grades Committee rather than the entire organization. I do have with me Mr. Rich Pennell who is also on that committee. In addition we do have the association's counsel, Mr. William Pennell who is sitting just behind us.

Mr. Chairman and members of the committee, we wish to thank you for the opportunity to appear before this Agriculture Committee in behalf of the North American Export Grain Association (NAEGA) to offer frank and constructive opinions relative to the proposed changes in the Grain Standards Act.

We are deeply concerned over fraudulent activities revealed recently in connection with the exporting of grain from the United States. Our organization represents the following major exporters who are vitally engaged in worldwide grain commerce and who certainly want the integrity of the U.S. grain inspection system and certificates to be unquestioned.

ROSTER OF MEMBERS, NORTH AMERICAN EXPORT GRAIN ASSOCIATION, INC., NEW YORK, N.Y.

Archer Daniels Midland Co., Decatur, Ill.; Bunge Corp., New York, N.Y.; Cargill, Inc., Minneapolis, Minn.; Central Soya Co., Inc., Ft. Wayne, Ind.; Continental Grain Co., New York, N.Y.; Cook Industries, Inc., Memphis, Tenn.; C. B. Fox Co., New Orleans, La.; Garnac Grain Co., New York, N.Y.; Inter-Continental Grain Company, Ltd., Toronto, Canada; Louis Dreyfus Corp., New York, N.Y.; North Pacific Grain Growers, Inc., Portland, Oreg.; Peavey Co., Minneapolis, Minn.; Richardson, James & Sons, Ltd., Winnipeg, Manitoba, Canada; Superintendence, Co.; New York, N.Y.; The Andersons, Maumee, Ohio; The Agro Company of Canada, Ltd., Montreal, P.Q. Canada; Tabor and Co., Decatur, Ill.; Tidewater Grain Co., Cincinnati, Ohio.

Mr. SPENCER. We do not condone nor excuse illegal acts by any individual or company, and the violators must be ferreted out, convicted and punished. Those individuals who have violated the trust placed in them have created a climate of suspicion and questionable honesty of the entire industry and we feel this is not a fair judgment of those who work hard to meet commitments to the buyers as equitably and honestly as they know how.

The news media, in their headline coverage, have repetitiously reported the same incidents and the same names on numerous occasions, which may have had the effect of causing the casual reader to believe that fraudulent acts are the commonplace way-of-life in the exporting of grain.

We submit that this is far from the truth. The violations are the exceptions not the rule, and billions of bushels of grain, oilseeds, rice and other agricultural commodities are exported each year having been honestly and conscientiously inspected and graded.

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The Grain Standards Act has a long history of development; the 1968 legislation was a comprehensive update of an original law first promulgated in 1916. Our NAEGA Grain Grades Committee was active over a period of 2 to 3 years prior to enactment in 1968, working with the USDA Grain Division in good faith cooperation to provide ideas and contributions. We still believe the basic act is sound, the regulations are explicit, and the inspection methods and procedures are generally definitive of all U.S. grain to all buyers both domestic and foreign.

This is not to say that changes should not be made. The recent events have shown problems in the administration of the present act, and we agree that quick and significant changes should be made to strengthen the soundness of the entire grain inspection system. The confidence of the overseas buyers in the U.S. certificate must be restored. But we respectfully submit that care must be taken not to throw out the baby with the bath water.

Our Grain Grades Committee, represented here today, is a group of technicians. We have spent our industrial lives working with grain and with the regulations and inspection procedures which are being questioned, and we feel our experience and knowledge can be used as helpful contributions in strengthening the weak elements.

Many of us have been involved in the full span of grain-handling activities—from the producer and county elevator, to the inland terminal, to the export elevator and even to the investigation of complaints in foreign countries.

We have come forward voluntarily to offer our suggestions, concurrence, caution, and criticism which we sincerely feel should be considered by this committee. We wish to be constructively positive in our comments, but also to point out those proposed amendments which, in our judgment, could be more injurious than beneficial in correcting the problems which have been brought to light.

Our committee roster, with the names of the companies represented, is as follows:

NORTH AMERICAN EXPORT GRAIN ASSOCIATION, INC.

COMMITTEE ON GRADES

M. Spencer (chairman), Continental Grain Co., New York, N.Y.; A. Deline, Louis Dreyfus Corp., Pascagoula, Miss.; M. Huddleston, Central Soya Co., Inc., Baltimore, Md.; H. Kaufmann, Cargill, Inc. Minneapolis, Minn.; G. Moyer, Bunge Corp., Freeport, Fla.; R. Pennell, North Pacific Grain Growners, Inc., Portland, Oreg.

Mr. SPENCER. We believe strongly in the basic Declaration of Policy of the 1968 act: "with the objectives that grain may be marketed in an orderly manner and that trading in grain may be facilitated". Our phenomenal ability to produce grain in abundance in the United States is matched only by our ability to efficiently market and handle such tremendous quantities. Efficiency must not be impaired if the United States is to continue to facilitate the trading of grain and to generate a significant balance-of-payments—particularly in years of generous harvest in other countries when competition is keen for disposal of exportable surpluses.

Concurrently, the U.S. export certificate must remain indisputably a final and factually accurate statement of the quality of grain being

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placed aboard a vessel. It is to these ends that we address our present comments.

Any changes in the grain inspection system must be made within the parameters of certain basic facts. We suggest the following points must be kept in mind in your analysis of the legislation proposed in H.R. 8347 and H.R. 8764. Therefore, we propose to review these general subjects first, and submit separately at the end of these comments specific observations on details contained in the various sections of the bills.

We hope this will both conserve your time and insure that our attention today is directed to the general thrust of the proposed legislation and not to peripheral details. Of course, we will be happy to respond to questions on specific points of our comments if you feel it would be fruitful.

1. Grain inspection reflects the evaluation of certain quality characteristics, but it cannot improve or alter those characteristics as they exist.

Grain is a raw field crop not a manufactured product. Nature controls its basic inherent quality, not the decisions people make.

Quality evaluation of grain must largely be ascertained by rapid visual examination of representative samples. Grain inspection is not an exact science; rather, most grading criteria are visual factors subject to personal interpretation based on experience, knowledge, and judgment. It is commonly accepted by all grain technicians that analyses performed by several qualified inspectors can have different results within statistical tolerances.

2. Every bushel of grain that leaves the farm must be marketable. Obviously, if all the corn crop graded No. 3 or better when harvested, and all the wheat graded No. 2 or better, there would be no problem.

The U.S. marketing system demands that handlers pay the going market price for high quality grain, yet concurrently provides a market to the producer of the low quality grain. With both extremes in combination, we can then provide, through blending, all grades of grain.

The success of the marketing services performed is measured by how great a proportion of the total crop is made merchantable.

3. The business is conducted on a wholesale rather than a retail basis. Commodities are handled on a rapid, bulk, high-volume basis. The resulting economies of volume provide maximum returns to the grower and minimum costs to the end user.

The efficiencies of U.S. farm producers (where only 4 percent of our labor force is involved in agriculture compared with the U.S.S.R.'s 31 percent, producing much less), and the equally efficient grain handlers serving these producers allow us to freely compete in world markets with our surpluses.

Grain inspection practices must protect the productivity of the handling system. Any time-consuming inspection constraints not warranted which reduce handling below full capacity will prevent meeting even current U.S.A. export projections. This, in turn, will reduce the valuable $12.5 billion annual contribution grain has made to the nation's balance of payments. Any reduction in full capacity will also result in added handling costs which will ultimately be borne by the grower.

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4. Grain standards must be broad enough to accommodate technological advances. They must also be narrow enough to adequately serve the end user's requirements consistently. This continuity of U.S. grain grades year after year is a significant advantage to overseas buyers which international competitors cannot offer.

For example, corn from Argentina or South Africa varies from crop to crop and so do their corresponding "FAQ" values. In certain years, when the vagaries of weather play havoc with our planting or growing periods, we still are able to market the crop on consistent standards.

An example of the technological advances referred to is the advent of the picker-sheller mode of harvesting corn. This yields an entirely different commodity for marketing than former naturally dried or crib-dried corn which was prevalent years ago. This major technological change brought shorter harvest periods, less farm labor demands, and better income to the producer; but also it created new difficulties for the handler, and generally results in severe problems which affect the ultimate quality.

5. Exporters buy and sell on the same grades. Thus we have the greatest stake in ensuring that inspections are performed objectively, consistently and accurately throughout the marketing process from point to production to the point of delivery aboard ship. Any inspection inconsistencies between buying and selling become needless quality risks which will ultimately translate into added marketing costs, inasmuch as the downgrading of a commodity is equivalent to reducing its value.

6. The grain marketing system must remain free, honest and fully competitive. Such free competition remains the most effective discipline in protecting a sound system. This will fulfill the requirement in the act's declaration of policy "that grain may be marketed in an orderly manner and that trading in grain may be facilitated."

Mr. Chairman, we exporters wish to state that we agree with, and fully endorse, 11 of the 21 total sections contained in H.R. 8764; we agree, with some reservation or clarification, on three additional sections; and we urge reconsideration on the remaining seven sections. The basic contents of H.R. 8347 are essentially as contained in one of the seven sections of H.R. 8764 for which we urge reconsideration.

Sections 2, 5, 6, 7, 9, 10, 13, 14, 17, 19 and 21 are clearly in the interest of the United States and the grain trade. Sections 3, 11 and 22, while appropriate in principle, need some clarification. The remaining sections 4, 8, 12, 15, 16, 18 and 20 are severe and significant changes which we question will strengthen the present act—but rather create new and different problems.

We ask your indulgence in covering the latter sections one-by-one with our rationale and alternative suggestions.

SECTIONS 1 AND 2

We support the amendments proposed in H.R. 8764 relative to the definition and appointment of official inspection personnel in its entirety. We would point out that the training of an inspector is not an easy, overnight process; and many months are required to become a competent, accurate and rapid analyzer of the full spectrum of grains and oilseeds.

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SECTION 3

Section 3 relating to weighing practices may be appropriate in concept but should not be included as part of the Grain Standards Act. With reference, however, the lines 2 and 3 at the top of page 4 relative to the automatic stamping of scale tickets, this expensive requirement on all scales will not increase their accuracy, and in hundreds of older elevators it would be physically impossible to achieve without exorbitant expense for complete scale replacement.

Determining the correct weight is the goal of this section not defining how the weight is recorded. If this section were to remain in the amendment, this is one of the three sections we submit requires clarification. A manually operated scale is equally accurate if properly attended by a trained weighman and supervised by a competent authority.

SECTIONS 4 AND 15

Sections 4 and 15 of H.R. 8764 propose primary Federal inspection only on export grain as does H.R. 8347. We submit, to ensure consistency, State inspectors should be authorized to make both domestic and primary export inspections. The State/Federal systems now operating for export grain in such States as California, Mississippi, Minnesota, Oregon, Virginia, Washington, and Wisconsin—to name a few—have worked well, and should be retained together with the appeal procedure provided for in the act.

The Federal appeal option, which is our industry's own built-in system of checks and balances, is well-known to the foreign buyer and is used extensively by the overseas soybean purchasers. This independent "3d party" inspection has the advantage of providing constant review of the licensed inspector's interpretative skills, and eliminates the questionable practice of the same basic office reviewing its own work, as the new amendment would require.

As an alternative, we would suggest that the Secretary be authorized to establish primary export Federal inspection in only those States which do not wish to perform official primary inspection, or in those States were the State implementation would be administratively impossible to accomplish in a relatively short period of time.

Inasmuch as the factors of grain inspection in most cases are interpretative and subject to an individual's judgment, certainly the analysis of cargos leaving the port should be done by the same general group which performed the inspecting of grain entering the port. Truly effective supervision in both instances by Federal inspectors is important to insure correctness and uniformity, and is subject to further checking by the Federal appeal procedure.

SECTION 8

With respect to the provisions of section 8 of H.R. 8764, we feel that the Secretary should not have the authority to suspend or revoke the registration of a corporation, partnership, or individual who is registered under the act without a hearing. Any suspension could well result in enormous financial loss to the entity so suspended in addition to fines provided in section 14.

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If a violation of the Grain Standards Act occurs, the penalties imposed should be limited to fines and convictions as provided in section 14 or to injunctions to prevent abuses; but the right of the registrant to engage in the grain business should not be subject to cancellation. At the very least, no certificate should be suspended or revoked without a full and fair hearing.

The provisions of new section 9(b) appear to be unduly onerous inasmuch as convictions might result in the suspension of a company's entire activities for periods in excess of 6 months. The proper penalty for such multiple convictions should be increased penalties, or suspension of the individual who has been so convicted.

SECTION 11

Section 11—records—of H.R. 8764 is appropriate to us as registrants, but we submit that the existing wording in section 12 of the act relating to records kept by official inspection agencies must be maintained whether it be Federal, State, or private. To eliminate these existing paragraphs would be tantamount to eliminating all retained grain samples, inspection records, shiploading logs, et cetera. We are sure that this is not the authors' intent.

SECTION 12

Section 12 of H.R. 8764, covering a subject entitled "Adulteration of Grain," seems to imply that blending of grain is synonymous with adulteration. We submit that adulteration and blending are entirely two separate and distinct considerations.

As a committee for the export trade, we unanimously concur that adultertaion in its true sense should be absolutely forbidden. This is in fact now covered for all raw agricultural commodities by the Federal Food and Drug Act.

As for blending, the entire grain marketing system in the United States is built upon blending. Blending is done by the farmer, by the county elevator, by the interior terminal—all the way through the marketing system to export; and without blending, a large percentage of any grain or oil-seed crop each year would be unmarketable. We are convinced that the authors intent is not to tell the farm producer that he cannot market his lower quality of grain if it does not meet high standards.

The 1974–75 corn crop, from the USDA's own documented analysis of over 100,000 samples made at origin—at the farm and country elevator level—showed that only 53 percent of the crop graded No. 3 or better. The other 47 percent of the corn crop—of No. 4 grade or less—had to be blended with better quality stocks before it was marketable.

Blending to our industry is not a degradation process for good grain, but is rather an upgrading process whereby superior grains can be used to better the lesser qualities, allowing the entire U.S. production to enter the marketing channels.

We feel, therefore, that blending any grade of wheat into wheat, corn into corn, or soybeans into soybeans is not deleterious, but rather provides a uniformity which can allow the entire crop to be merchandised.

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Soft Red Winter wheat in some years is plagued with large quantities of garlic. Should this be shunned by the grain merchandisers? Soybeans have repeatedly been in some years subject to stinkbug damage, purple mottling or staining, or excessive splits due to extremely dry weather—all factors which determine the official grade. Shall we tell the producers of these weather-affected commodities that their hard-earned yields cannot be marketed and must be fed to their own hogs and chickens? We are certain this is not intended.

This blending process does change in the character and test weight of the grain prevailing at time of first purchase, which section 12 would seem to prohibit; but this is advantageous—not a furtive act.

As for adulteration, we fully endorse the prohibition of adding any true adulterant to grain, and we would not defend nor condone the acts of those who do. But to characterize the entire export industry as culprits who dump all their junk and trash into vessels, is a gross injustice and simply not true.

SECTION 16

The above comments are also applicable to the proposed section 16 of H.R. 8764—foreign material in grain—which would promulgate regulations under which all "foreign material" is considered a dockage item and not used in determining the net weight of grain for the purposes of buying and selling.

Here, again, the connotation of the word foreign material as proposed is confusing. If the authors are referring to true foreign material such as sand, dirt, chaff, stems, pods, bits of stalk, or weed seeds, we understand this approach; but these true foreign material items have their origin at the farm level and have been intensified by modern technology. Certainly the farmer will have to be denied payment for these items if they are subtracted from his delivered weight.

Under the present standards' definitions, foreign material usually includes portions of kernels or seeds which have been broken. If it is intended that broken soybeans, or broken corn or wheat kernels are foreign material as well and become a dockage item, and recognizing that an additional 2 to 8 percent of some grains will be broken by mere repeated handling in the movement through the marketing pipeline to ports, the anticipated ultimate loss must be borne by the farmer. We cannot assume that this kind of "foreign material" can be simply removed and discarded, having paid grain price for this material in the first instance

It would seem particularly incongruous to treat broken corn kernels as dockage when 92 to 95 percent of all corn exported today is used in animal feed compounding where the corn is finely ground through a hammer mill before it is used in a formulated feed.

The foreign buyer today has chosen to purchase No. 3 Yellow corn almost as a standard, whereas 5 to 8 years ago he was buying No. 2. Now we have overseas buyers who are requesting and buying No. 4 corn—where broken corn/foreign material is the degrading factor. They are smart enough to recognize that a higher percentage of broken corn kernels is not deleterious to the end use and represents a significant discount to the buyer in choosing the lower grade. He knows he gets what he pays for, and he is at liberty to buy a much better grade if he is willing to pay the price.

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SECTION 18.—LOCATION OF INSPECTION OFFICIALS

We are in agreement with the concept that the office, headquarters, or any other center of official business of any personnel of any State agency authorized to conduct official inspections, or of any employees of the Department of Agriculture authorized to conduct official inspections shall be distinctly separate, and the entrance to such facilities prohibited to any person holding a certificate of registration obtained in accordance with proposed section 7 of H.R. 8764—unless invited or on official business.

However, it is imperative in the interest of efficiency of the operation that the office, headquarters, and particularly the laboratory of the authorized agency be located at the grains handling facility. As related earlier, the loading of export cargos is a continuous, high-speed bulk operation; and official samples are constantly obtained from a moving stream of grain and analyzed every 10 to 15 minutes.

It would be absurd to assume that such frequent and fast analyses could be obtained if the laboratory were physically removed from the vicinity of the export elevator and still retain a semblance of efficient ship loading. We submit that this is equivalent to putting the United States out of the export business inasmuch as the slow-down of loading would make the cost of such exports prohibitive.

Time is one of the industry's major cost factors, and the high-speed, efficient loading is one of the hallmarks of the American industrial ingenuity allowing us to compete in world markets.

We would propose, as an alternative, that inspection facilities be made distinct and separate areas at the elevator site with separate entrances, either constructed by the state or Federal agency, or in such a secure space furnished by the exporter at a reasonably uniform rental. No gratis facility, equipment, or service should be furnished by the exporter which would imply conflict of interest or compensatory favoritism.

SECTION 20

Section 20, which may have as its intent the production and marketing of high quality grain, cannot legislate out the effects of weather or other factors over which the farmer has no control. We have, in truth, already in existence a range of grades which rewards the producer and seller of high quality grians, and discounts the producer of poor quality. The free marketplace sets the basic price of good grain in the age-old free enterprise system of supply and demand.

The same is true in the foreign buyer's options. He is free to buy the No. 1 quality if he is willing to pay the price; but more frequently than not he chooses to buy, with full knowledge and understanding of the U.S. grading system, the discounted grades wherein the intrinsic quality will serve his needs much more cheaply.

The basic intention of the section 20 amendment is already at work. We would, however, be amenable to a "super" quality grade in some instances where the wet or dry corn miller, for example, who produces food for human consumption, would desire a quality much better than the current range of grades would define. Even in this case, such premium quality is currently sometimes negotiated between the buyer and seller.

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SECTION 22

Finally, section 22 of H.R. 8764 and section 9 of H.R. 8347 requiring an effective date only 180 days and 90 days respectively after enactment would create untold confusion. If the final bill should encompass changing official inspection and weighing personnel, new grade ranges, new definitions of grading standards, etc., we would point out that forward sales to foreign buyers are often made many months in advance—up to 12 or 14 months—and the intervening period with two sets of guidelines would be an administrative chaos and somewhat discriminatory. We would suggest alternatively, that 1 year be allowed for full implementation of whatever changes are promulgated.

SUPPLEMENTARY SUGGESTIONS

We respectfully ask that Federal supervision be intensified in the major interior markets, particularly those areas which serve as points of origin for movement to the ports. All the emphasis has been on precise inspection at the port with little or no emphasis at the interior terminals.

As a consequence, the intermarket differences which exist in some areas are particularly costly in both time and grade at the export elevators.

We firmly believe that the quality control begins in the interior market which will help assure that inspection problems at the point of ship loading will be minimized. Sufficient funding to provide additional Federal supervisors and inspectors is the least we would request to minimize these intermarket grade differences.

In addition, we feel these major interior locations should be subject to the mandatory use of automatic diverter-type samplers. It is well known that these samplers provide the most statistically accurate sample of any size shipment, whether it be rail car or barge.

A portion of the intermarket grade differences can now be attributable to the lack of good sampling at these interior points. The automatic sampling has just recently been made mandatory at export houses, and to extend this more reliable method of sampling to the major interior shipping points is a logical request.

Mr. Chairman, we respectfully request that inasmuch as our Grain Grades Committee met, drafted and printed our prepared statement on H.R. 8347 and H.R. 8764 before the receipt of the administration's bill H.R. 9467, we be allowed to make a few supplemental comments as to the contents thereof.

Mr. POAGE. Yes, I understand that, and you may proceed.

Mr. SPENCER. The original bills had reference only to Federal and State/Federal inspection services, and we felt compelled to address ourselves only to the choice of these two. For that reason we did not comment on the implied elimination of the private inspection sector.

We must now, however, state that the existing system, as it is proposed to be retained by the administration, is a choice we do not reject—particularly with tightened Federal administrative provisions and severe penalties for violators of the act. We wish to make this clear so that it does not appear that our sole and adamant choice is a state system of primary inspection

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As to certain specific provisions of H.R. 9467, we would like to address remarks to just three specific sections:

SECTION 3

This would add a provision under subsection (f)(2) which would establish fees "to cover the Federal administrative and supervisory costs directly related to the official inspection of grain" being performed by inspection agencies.

While we agree with, and fully recommend, more Federal supervision at Interior as well as export markets, this function has existed historically as a necessary part of the Department's reviewing, educating and policing responsibility to the licensed agencies.

To charge the agencies a fee for this overseeing would be inflationary inasmuch as the users of the inspection service, who support the costs of primary inspection, would indirectly be paying for this supervision with no additional service being rendered.

The blanket authority granted the Secretary without limitations on numbers of people, related administrative overhead, magnitude of fees, etc., could eventually amount to a multimillion-dollar direct cost to the grain trade which would have to be borne by the grain producer or the foreign buyer. We feel such a supervisory function should be funded through appropriation.

SECTION 8

The proposed new section 12(d) of the act requiring records "of purchases, sales, transportation, storage, treating, cleaning, drying, blending, and other processing" be kept for 5 years is unduly burdensome and utterly impossible in some cases.

The purchase, sale, transportation, and storage are acceptable and can readily be retained on records as finite entities for as long as deemed necessary. On the other hand, treating, cleaning, drying, and blending more often than not are activities related to continuously moving streams of grain of 4,000 to 50,000 bushels per hour which change hour by hour or even minute by minute, particularly in the fast-moving large terminal or export elevator operating 24 hours per day. They are subjective in nature and not quantitatively identified with a specific bushel of grain.

Grain is commingled, not kept identity preserved, and such detailed records would be meaningless in attempting to relate a given small amount of grain to given activity. Any step beyond this would require a battery of clerks and a computer.

SECTION 19

We are compelled to reject the advisability or benefit to be gained in monitoring grain cargoes in foreign ports on a programed basis. While the proposed legislation and the industry itself strive to retain the integrity of the U.S. export certificate, this provision would seem to imply that the loading and certification are questionable and must be reaffirmed in the eyes of the foreign buyer. Our export certificate is final at loading and does not guarantee outturn qualities. If such

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guarantees were implied, the inspection at time of loading would be redundant.

There exists even now a misunderstanding in the minds of some ultimate users in foreign countries that, after repeated handlings and many intervening weeks after loading at a U.S. port, the grain he receives will be exactly as stated on the original U.S. certificate. Anyone who knows the nature of grain will attest to the fact that this cannot be true. During times of widely fluctuating market prices, this officially sanctioned function of arrival inspection would be a never-ending source of complaints to justify rejection of cargoes bought at higher than current market price.

Many factors are known to contribute to quality differences between loading and unloading samples, including:

(1) Natural separation of grain particles by mass density characteristics when loading,

(2) the impossibility of obtaining a statistically accurate sample for the entire cargo,

(3) the techniques of loading into the holds of a vessel used by longshoremen,

(4) the type of vessel loaded,

(5) the internal configuration of the ship, that is, ventilation,

(6) the length of the voyage,

(7) the ambient air conditions of loading versus unloading sites, as well as temperature of grain loaded,

(8) the ocean water temperature, and

(9) the effectiveness of fumigants allowed by the foreign buyer as well as regulatory safety agencies in the United States.

All other provisions of the administration's bill are satisfactory.

Mr. Chairman, we wish to thank you and the committee for your patient attention and trust that our comments have been germane to the major inadequacies of the present act, and have pointed to the possible pitfalls of some of the proposed amendments. We would be pleased to answer any specific questions within our ability as technicians.

Mr. POAGE. Thank you very much, Mr. Spencer, we appreciate your main comments and your additional ones.

Our next witness is Mr. W. W. Hart.

[The prepared statement of Mr. Hart follows:]

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Statement of
WOODROW W. HART, EXECUTIVE DIRECTOR
SOUTH TEXAS COTTON AND GRAIN ASSOCIATION, INC.

My name is Woodrow Hart, Executive Director of South Texas Cotton and Grain Association, operating in twenty counties along or adjacent to the Gulf Coast of Texas. Our principal crops are cotton and grain.

We have studied grain weighing and grading in a most careful way. We are vitally interested in grain being weighed and graded in the most efficient manner that is possible.

Our organization recommends that the present system of weighing and grading be continued, but it must have more and better supervision from USDA than in the past. We oppose a Federal inspection system or a combination Federal and State inspection system. There would be less safeguards than in the present system, since the only supervision would be another Federal employee. Federal employment does not insure honesty, integrity, nor hard work.

We feel that USDA should conduct monitoring activities in foreign ports to determine if the cargoes of grain have been weighed and graded properly. Any violations must be vigorously prosecuted.

It would be unreasonable to assume that a conflict of interest exists where a Grain Exchange is owned by a number of grain producers, elevator operators and exporters, even though the Grain Exchange hires the official inspectors. Our position is that the Federal government should supervise the weighing and grading and not actually weigh and grade on a permanent basis. Ownership of a grain exchange must be in the hands of people that are interested in accomplishing the orderly and prompt movement of grain in trade channels. Total ownership of grain exchanges by investors in other industries would not be responsive to the needs of the grain industry. We consider the grain exchange as a service that must be performed in a reasonable, efficient and in a timely way. We could point to the Grain Exchange in Corpus Christi as an example where the grading is being carried out in a very efficient manner. This Exchange is owned by about one hundred stockholders, with the largest owning 7%, and this being a bank. If any radical change is indicated, Mr. Chairman, we suggest that it be patterned after a grain exchange that is doing a good job.

Another area of the grain business that is receiving so much attention and advice from the uninformed lately, is our available supply, or our ability to feed ourselves with enough left over to export. Congress changed the marketing year on wheat and reports state that the USDA is considering asking for a change in the marketing year on oats, rye and barley to June 1 beginning and ending May 31. We would have less confusion and more understanding by the general public if the marketing year on corn and milo were also changed to June 1 to May 31. This would allow every pound of grain to be harvested within the marketing year. Much grain is harvested in June, July, August and September of each year and that is before the marketing year starts. We are asking that the system be simplified so that more of the general public will understand the supply situation.

Mr. Chairman, I appreciate the opportunity to make a statement before your committee on this very important subject.

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Mr. POAGE. Mr. Hart, we appreciate your being with us and we thank you for your statement.

Our next witness is Mr. Paul C. Hughes.

[The prepared statement of Mr. Hughes follows:]

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STATEMENT OF
PAUL C. HUGHES
ON BEHALF OF
MIDSOUTH SOYBEAN & GRAIN SHIPPERS ASSOCIATION

Mr. Chairman and Members of the Committee:

I am Paul C. Hughes, Executive Vice President, Farmers Soybean Corporation, an independent grain firm located at Blytheville, Arkansas.

Today I am appearing on behalf of the members of the Midsouth Soybean & Grain Shippers Association as Secretary.

The Midsouth Soybean & Grain Shippers Association is a voluntary regional Association of grain firms located in those parts of the states of Kentucky, Missouri, Tennessee, Arkansas, Louisiana and Mississippi situated along the Mississippi and other rivers and have as our common bond the export market of grain through the Gulf. Our membership of over 100 reach this market mainly by rail or barge equipment.

As a large majority of our membership depends upon exports as the market to move the grain we buy from our customers, we all have a vital interest in maintaining the integrity and health of our grain exports.

Our members sell their grain based upon destination weights and often destination grades; therefore, if we are to stay in business, it is necessary that we have correct and honest weights and grades at the Gulf. Also, as sellers we pay for these services--we demand that the integrity of these services be beyond reproach.

We share the concern of your committee of the many irregularities that have been revealed in grain inspections and weighing at some of the Gulf elevators and the number of indictments and convictions coming from the Grand Jury investigations, and we believe we have often been the victim of these crimes.

Our concern goes back even further than the Grand Jury investigation or yours because according to the minutes of our Association at our 17th Annual Convention in Memphis, Tenn., August 3rd & 4th, 1970, a committee was appointed to see what could be done to determine why there was at times such differences in barge weights between the shippers and receivers at the Gulf.

Before this and since, our membership have had no real complaints concerning official grades at the Gulf.

But weights have been a different matter. Since our annual meeting of 1970 we have worked with the Gulf elevators, management of the barge lines, and the National Grain & Feed Association Barge Users Committee and Barge Council.

Since we knew that the owners and top management of the export elevators were not hiring people to steal from us by short weights - we worked trying to correct the problem - through the premise that our employees were careless and not getting all the grain in the barges - that grain was being stolen from barges in fleeting areas, and that the Gulf elevators employees were careless and weren t getting all our grain through the scales. We could reach no successful conclusion of our problems using these assumptions and it was not until the recent indictments that we realized that there was a ring in some of the elevators - stealing grain by short weights in and out of the elevators and then selling the accumulated quantity of grain using false weights and grade certificates. Here was the answer to our concern going back to 1970.

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As you are considering H.R. 8764, H.R. 8347, U.S.D.A. Bill H.R. 9467, and other bills and suggestions, we will not try to speak to each proposed change in these bills and suggestions but would just like to cover the subject with some general comments and specific suggestions which would apply to all these bills you are considering in these hearings.

As we in the past have found weights to be more of a problem than grades, we would first like to discuss weights and our position.

To many, official grades and official weights are one and the same thing. Nothing could be further from the truth. To have official grades the grain must be sampled by a federally licensed sampler working for a third party inspection service. Then that sample of grain is inspected and graded by a Federally licensed inspector working for the same service under the Grain Standard Act as amended and its regulations. These men's work is supervised by the U S D A. The Grain Standard Act that you are considering today provides that the U.S.D.A. can and must lift either or both of these two men's license if they are found to be doing their work incorrectly and the law goes on to provide for both fines and imprisonments if they are found guilty of criminal action.

As shippers and users of the inspection services we are in favor of the stiffer penalties contained in the proposed new laws.

Official weights as far as the Gulf is concerned - it only means that your grain is weighed by an employee of the elevator - whose work is supervised a certain percent of the time (I believe about 25%) by the official weigh master of the inspection service serving that elevator or one of his agents. If this is done the service's weigh master will issue an official weight certificate certifying that the weight is correct. But the weighing was done by an employee of the elevator and certified to by an employee of the inspection service neither having been licensed by the U.S.D.A. under the Grain Standard Act. There is no provision in the act to license weighers or weigh masters; therefore there is no provision to remove them if they are doing their work incorrectly and no provision under the act for fines and imprisonment for criminal action as has been taking place at the Gulf and no provision for U.S.D.A. supervision. It is true that the employee of the company if it is licensed under the Federal Warehouse Act has to be a licensed weigher under that Act, but it provides for no real supervision or control.

We suggest first that the Grain Standard Act be amended to include the licensing of weighers and then subject them to the same law and regulations as are licensed inspectors and samplers.

When this is done we suggest that the act then be amended to allow for three types of weight certificates just as it provides for three types of grade certificates.

1. Class A Official Weight Certificate (A Golden Certificate). This should be required of our export grain just as a Class 1 Grade Certificate is required. Here the weigher would have to be an employee of the third party inspection service handling the elevator inspections - that he would be licensed under the Grain Standard Act and would be supervised by the same Federal Agency handling grades and be subject to all the same penalties as are samplers and inspectors when he doesn't do his job correctly.

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2. A Class B or Silver Official Weight Certificate. Here the grain could be weighed by an employee of the grain elevator. That he be licensed and supervised by the U.S.D.A. similar to "Warehouse Samplers" under the current act and be subject to all the same regulations as the "Warehouse Sampler."

3. A Class C or White Weight Certificate. This would provide for elevator employees to weigh grain and to provide their customers with a non-official weight certificate as most country and many terminal elevators do now. These weighers would be subject to the same state and federal laws that we now have for honest weight.

There are states that require that for an official weight certificate the weigher must be an employee of the inspection service - but he is not licensed by the U.S.D.A. as are samplers and inspectors.

We firmly believe that if our suggestion had been the law of the land we wouldn't have as many indictments and convictions for false weighing as we now have at the Gulf.

We feel that the problems with official grades at the Gulf can be traced directly to two things:

1. The reduction in the number of Federal Supervision personnel just about the time that our export business really began to boom. We commend the U.S.D.A. for recognizing this error and proposing many additional supervisors under H.R. 9467.

2. It has been our experience that whenever you begin to have trouble with an inspection agency for under grading grain into the elevator and over grading coming out of the elevator, it is almost always where you have a one-on-one inspection point - where one inspection location inspects grain for just one elevator. And this is true if the inspection point is operated by a State Agency - private service or a Board of Trade. It is normal for the inspector to protect himself. We believe that several of these one-on-one inspection services were established along the lower Mississippi just about the time the Federal supervision was being cut.

To handle this at the Gulf around New Orleans, the only export area we know we would suggest that all the inspection agencies we have there be closed. That all the elevators in that area get together and organize one (not for profit) super inspection service. Hire a commissioner similar to the way professional sports do - for a term of office for more than one year - and that all the licensed samplers, inspectors and weighers in that area be under him subject to federal supervision. These licensed employees would then be rotated among the various export elevators - just as baseball umpires and football officials are. We believe this would meet the requirements of page 2, line 22 of H.R. 8764.

We are opposed to federalizing the grain inspection system and would like to commend the U.S.D.A. in their bill for not wanting to make grading a complete federal system. We feel that since many grading factors require judgement decision that our present system of Federal Appeal is invaluable and a completely Federal system would destroy this system.

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However, we disagree with their proposal to close inspection services operated by Board of Trade as having conflict of interest. These services are operated because both the buyer and seller wants an honest inspection. Can't see how a Board of Trade can have any more conflict of interest than a private service where the owner depends upon the revenue of the service for a living.

As users of the inspection & weighing services, we have no objections of paying reasonable fees as we do now, but we want to remind you that a good grading system means orderly markets both here and abroad and some of the expense of the system should be borne by the general public for the general good.

We are 100% opposed to the Adulteration of Grain but the blending of high and low quality grain to make medium quality grain is a necessary and proper function and is not adulteration.

We are against all portions of any bill before you that would remove the marketing of grain overseas for the grain trade and turn it over to an agency of the Federal government. You cannot control the export market of grain without nationalizing the grain trade and soon farming.

Mr. Chairman, we appreciate this opportunity to appear and make our statement. The Midsouth Soybean & Grain Shippers Association is willing to work with your committee in pursuit of our joint objective of maintaining the export market for our grain and the integrity of our grain weighing and inspection system. I stand ready to respond to questions concerning my statement.

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Mr. POAGE. Thank you very much, Mr. Hughes. We appreciate your comments. We will call you back in a few moments for questions.

Our last witness is Mr. Robert Parker.

[The prepared statement of Mr. Parker follows:]

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STATEMENT OF ROBERT L. PARKER; SECOND VICE PRESIDENT
representing TEXAS GRAIN & FEED ASSOCIATION
1201 Sinclair Oil Building, Fort Worth, Texas 76102

The members of the Texas Grain & Feed Association appreciate the opportunity to be represented by testimony before your Committee concerning H.R. 7442, H.R. 8347 and H.R. 8764.

The Texas Grain & Feed Association, or its predecessor association, was organized in 1898. It represents the grain, flour and feed industries in Texas and has more than 1,000 members.

In private business, I am president of Paris Milling Company with general headquarters at Paris, Texas.

I may have been asked to give this testimony for the Association because, as feed manufacturers, we buy grain and feed ingredients at our Paris and Vernon, Texas feedmills. As a country grain elevator at Paris and Muleshoe, Texas, we sell grain to exporters, feedlots, feedmills, food processors and other users. Our grain division even occasionally sells grain to our feed division if the price is right.

We are not members of any grain exchange.

As I understand the above numbered Bills now under consideration, their principal thrust is to federalize the grain grading system in the United States with possibly delegation of some of this responsibility to State governments. These Bills have been written, as I understand it, in response to alleged grain grading and grain handling scandals, occuring primarily in the New Orleans, Louisiana port area and to a lesser extent in the Houston and Galveston, Texas port areas.

The Texas Grain & Feed Association, through its Board of Directors, has gone on record to encourage and support the vigorous investigation of any alleged wrong-doing in the grain industry, to properly prosecute the offend-parties and hopefully, to administer punishment to the guilty befitting the crime for which they may be convicted.

I know you gentlemen are extremely interested in making certain that grain handling and grain grading are conducted honestly and fairly. It is enormously important to foreign buyers, inland shippers and United States farmers that confidence be restored in the grading and weighing system. I submit to you that members of the Texas Grain & Feed Association, most of whom are country elevator operators who ship grain to large terminals and export elevators, have an even greater interest in fair and honest grain handling and grading. We want to be certain when our rail cars and trucks arrive at the terminals and at the ports that we get fair and accurate weights and grades. If there is any cheating going on, the losses come right out of our hide and right out of our pockets.

I have been told there are 111 official agencies charged with the responsibility for initially grading grain, including 23 agencies operated by States, 41 agencies operated by Boards of Trade, Chambers of Commerce and grain exchanges and 47 agencies operated under individual ownership. We are aware of fewer than five of these agencies who have been cited for wrong-doing, or indicted by grand juries.

I say again, the members of the Texas Grain & Feed Association are greatly interested in a solution to the problem. We do not favor wrecking a system that has served us well, and has stood the test of time, in order to correct a limited number of recently discovered abuses to the system.

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We further question the wisdom of replacing this basically sound system with an unknown, untested Federal or combined Federal/State system.

I believe honest men will agree that no segment of government, industry, labor or the public has a monoply on honesty and integrity. Down through the years, individuals in all groups have been weighed in the balance and have been found wanting. I read in the Amarillo, Texas Daily News of September 11, 1975, that "Government is probing grain fraud within USDA." My question is, if the Federal Government takes on all aspects of grain inspection, who will check the Federal inspectors?

If use of Federal/State inspectors is to be considered, what is the performance record of the States?

I am told Kansas has an excellent program. In Texas, our Department of Agriculture does many good things, but in some matters of inspection, they seem to already have their boat over-loaded.

For example, the Texas Grain & Feed Association has worked to strengthen the Texas Warehouse Law and was successful in getting a new law passed in 1968 with bonding requirements for elevators equal to Federal-licensed elevators. Since then there have been several warehouse failures in Texas. The Texas Department of Agriculture supervises the warehouses. They are responsible for studying each company's financial statement each year when the firm makes application for renewal of its warehouse license. During the year they make actual inspections at the plants to determine if the correct amount of grain is on hand. Just because we have had a few warehouse failures, including recently the American Grain & Cattle, Inc. of Plainview, Texas (one of the old Billie Sol Estes elevators), we do not want to do away with our State Warehouse Law and require every elevator to obtain a Federal Warehouse License.

The point is, it does not make any difference whether the inspection and control is private, State or Federal; there are going to be some problems. People are people. Some do wrong. It doesn't make any difference where they work. They can go wrong working for the State Government the same as they can go wrong working for private industry, labor unions, or the Federal Government. Our present system has good checks and balances which are needed to insure proper grading and weighing of grain. We need to maintain this checks and balance system.

The question has been raised about conflicts of interest where grain exchanges are owned by brokers, grain firms, feedmills and flourmills, who are engaged directly or indirectly in the grain business. It is difficult to eliminate all conflicts of interest. Honest men and women detect possible conflicts of interest and abstain from participating where conflicts or the appearance of conflicts may arise. In the political area, judges are particularly alerted to disqualify themselves where possible conflicts might appear. Certainly there might be opportunity for conflict of interest where grain firms are members of grain exchanges. On the other hand, many grain exchange members trade with each other, and rely on the grain exchange for accurate weights and grades. In this way, you might say, they keep each other honest.

Another question arises: If the agencies are Federal and State controlled, should we consider the possibility of a political conflict of interest? Great political pressures can be brought to bear on a firm whose economic life depends on the result of inspections.

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To review what you already know, primary inspections of grain and weighing are made by inspectors employed by exchanges, Boards of Trade, private inspectors and inspectors of various States. Appeal inspections are performed by licensed inspectors in the various Field Offices of the United States Department of Agriculture. Finally, Board of Review appeals are performed by USDA licensed inspectors in Beltsville, Maryland. It is my understanding that these Federal inspectors have the responsibility every day to make certain that correct procedures are being followed. Yet I read that one international grain company has been charged with short-weighing some foreign customers for a period of more than ten years. It appears to me that the Federal inspection system must bear a part of the responsibility for failing to discover the problem during a period covering ten years.

In defense of Federal inspectors, I am told they have been forced to operate under very strict manpower restrictions in the face of enormously expanded grain exports. They may have been doing the best job they can under the circumstances. You may want to consider too, that port areas are infrequently chosen for Sunday School picnics. Some inspectors may have been compromised, others may have been intimidated.

Grain grading is not an exact science. Human judgments are required. To function, the grain trade must have a fair, honest and competent referee, backed by an accurate and reasonable set of standards.

The Texas Grain & Feed Association respectfully recommends to the Committee that the present "two-level" inspection and grading system be continued. Basically, this system provides for a primary level inspection conducted by State, trade, and privately-owned inspection agency employees licensed by USDA, and a supervisory and appeal level operated by USDA.

Further, we recommend that the number of Federal inspectors be increased, and that procedures and programs be developed to discover wrong-doing at the earliest possible time.

And, finally, that maximum fines and punishment for those found guilty of crimes shall be increased, to make the punishment more nearly fit the crime.

Mr. Chairman, we appreciate this opportunity to testify before your Committee.

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Mr. POAGE. Mr. Parker, we were glad to have you. Now we will ask other witnesses to come up to the table for the question and answer period.

It is necessary for me to leave at this time, so I will ask Mr. de la Garza to take over. I did not realize that I was going to have to preside today.

Mr. DE LA GARZA. We will invite all of the other people who testified to come up to the witness table, please.

For those of you who may not be knowledgeable of this procedure, the members are authorized to ask questions of any individual witness and also the member may ask a particular question of a particular person.

So, you may have a general question or a particular question. You are welcome to participate on general questions.

Mr. Thone.

Mr. THONE. Thank you, Mr. Chairman.

Mr. Spencer, obviously you and your committee have spent a lot of time analyzing this legislation. Unfortunately, you did not have a very good crack at H.R. 9467, which is the administration's proposal. Although you did comment on sections 3, 8, and 19, you did not comment on section 7 which is the conflict of interest section.

I've been doing some reading over the weekend on this. The conflict of interest issue here is going to be central to the whole issue before we resolve the basic problem.

You said you grew up with the current law and I notice that you represent the heavyweights of the export industry. The conflict of interest section, 2687, in the current law is rather general and broad. There has been some reference to it here this morning. You will recall that the last witness, Mr. Parker, said that when a judge had a conflict, then he disqualified himself.

Do you feel that the people in the boards of trades and chambers of commerce can stay in this inspection business without the "inherent conflict of interest" that was alluded to by Mr. Feltner in his statement Friday?

Mr. SPENCER. We responded originally only to the first two House bills. You are correct that we did not have access to the administration's bill until later last week. We did not, specifically as a committee, discuss that, but I think personally I would agree in saying that if the private sector were retained, direct and indirect conflict of interest would be very difficult to avoid.

I don't know how it would be administered. Having heard the administration's testimony on Friday, I would agree with them.

Mr. THONE. I agree. There would be real problems on the administration of it. But, I think it is one of the tough issues that this committee or any committee that's going to be concerned that is difficult to come to grips with. Do you agree?

Mr. SPENCER. I would agree, particularly if the private agency exists solely for the grain trade.

Mr. THONE. I am one of those folks who hopes that we don't federalize inspection. It would be a step backward. Frankly, I was disappointed in your addendum statement in which you were kind of lukewarm on your rejection of the federalization of this inspection system.

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By the way, Mr. Spencer, what percentage of the export does the North American Grain Association represent?

Mr. SPENCER. I do not know the exact percentage.

Mr. THONE. Almost all of it?

Mr. SPENCER. No; I would say perhaps 75 to 80 percent of all export.

Mr. THONE. I notice that you are with Continental which is one of the smaller folk in the business. You did talk here about being strongly for competition in this export area.

Do you feel that we have adequate competition in this field currently?

Mr. SPENCER. Sir, I would have to answer that this way. I am a technician. I am in charge of elevator operations. I'm not in the merchandising aspect of our business. So, I am really not qualified to answer that.

I would like to think that the competition exists. Personally, I would say the competition is keen and open to everybody.

Mr. THONE. But, it is handled by basically a few large companies.

What percentage of the export business does Continental have?

Mr. SPENCER. I have heard it said that it is between 15 and 20 percent.

Mr. THONE. I am drifting off a bit here.

I have one other item. I notice that your committee came out strongly for an opposition to monitors overseas. Why?

Mr. SPENCER. I think that was the one paragraph that we explained mostly. Because a number of us on the committee have been directly involved in the investigation of many overseas plants. I think the whole purpose was to point out that we do not sell grain in the U.S. Grain Standards Act by a delivered quality. It is sold export grade. For the list of items these are the reasons that we often find and bring to you, that is that the grain as it is found on the overseas market will never be the same as the export certificate.

Mr. THONE. Mr. Spencer, my time is up so let me have a quick closing question.

Mr. Groot, I see you took a position the other way. Why do you feel that monitors overseas are required?

Mr. GROOT. I think this would help protect the grain trade in this country in that there could be interference made that the grain as it was loaded at the port was in fact according to the contract which was written between the buyer and the seller.

We would not be held responsible for things that are not the responsibility of the companies here or of the United States.

We feel that there is something that can be done in the overseas market. They can take a look at their handling and their inspection and sampling and grades for themselves which would be in their own interest.

I thing this works both ways.

The monitoring type of plan would help insure the delivery of a good quality product which is loaded at the port and it would also be a protection that we do not get held responsible for things that are beyond us.

Mr. THONE. My time is up. Thank you, Mr. Chairman.

Mr. de la Garza, Mr. Bergland.

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Mr. BERGLAND. Thank you very much, Mr. Chairman. I would like to commend this panel for offering a great deal of careful research and constructive criticism of the bills pending before the committee.

Who among you can tell me what the usual and customary fees are for services provided by the USDA in the inspection field? I should broaden that to include the entire inspection industry which would, of course, be private firms, state institutions, boards of trade, and the like.

Mr. VANDERFORD. I would like to call Mr. Butler, who is our chief inspector and weighmaster, to address himself to that point, sir.

Mr. BERGLAND. While he is finding his information, can you tell me what the process is followed if an appeal is filed by a shipper or by a foreign buyer? To whom does he file the appeal and what sort of a mechanism is cranked up?

Let's say, for example, that an exporter in a country elevator in the State of Iowa was dissatisfied with a grade determination on a lot of grain that moved from his area. What would he do?

Mr. HUGHES. Anybody with a financial interest in that lot of grain would call the appeal.

Mr. BERGLAND. To whom?

Mr. HUGHES. The man who wants the appeal calls the appeal to the USDA. The USDA can either check the sample on which the original inspection was made or he can ask for a new sample and a new inspection. If the container had not been unloaded and moved, then he can get that.

If the buyer disagreed with the grade, then he too has that right, that is to call and appeal.

The seller who made the initial inspection cannot stop the buyer from calling an appeal.

Mr. BERGLAND. I have been told that some elevator operators operating in the Midwest appeal every grade determination because they have been so dissatisfied with the grades determined for the lots.

Is that true as far as you know?

Mr. HUGHES. I cannot speak for the Midwest. I know my own personal operation. I have called one Federal appeal in 1 year's time on something over 2 million bushels of grain.

Mr. BERGLAND. Mr. Spencer, you made an astute observation on the impact of section 12 of the bill introduced by Mr. Smith and others having to do with the need for distinguishing between adulteration and blending.

In rereading that provision of the bill it does not clearly make that distinction. I think your point is very well taken.

Blending is a legitimate business and ought to be permitted for reasons which you have cited. However, adulteration is something else.

My question goes to the adding of foreign materials to certain grains, specifically food grains like wheat, as a case in point. It's produced in abundance in my country in northern Minnesota. Foreign material that is seen to be dockage so the elevator operators find themselves reducing the dockage to a minimum amount because dockage shipped to a market is deducted at the end and the shipper therefore simply pays the freight on the dockage and loses whatever value it may have. So, the grain moves into the central market system virtually free of dockage.

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Apparently the materials are added somewhere along the line. How can this happen? Does anybody know?

Mr. SPENCER. The question of defining what becomes dockage is important. That's why we mentioned, for example, that we consider corn as a very difficult commodity to say that anything passing through a certain meshed screen will be considered as dockage or foreign material.

Particularly, the quality of corn as the handlers know it today, from the time it leaves the farm perhaps through an interior terminal through an interior river house to the export house where it is handled several times, we know from experience, as we pointed out, that 2 to 8 percent of the whole kernels that once existed may suddenly be called to the exporter dockage.

Obviously, he cannot take an 8-percent loss simply because the corn handling has broken up more kernels.

So, when you get into defining grading factors, it is a very precise kind of thing and it is not as simple as saying that everything through a screen shall be considered dockage.

It could be wheat seeds. It could be true foreign matter. It could be broken kernels.

That depends upon how the revised standards would be written.

This is why we are wary of this. If you are talking of the true foreign material or dockage, then I would say that I know of no direct instance personally where export elevators, even if they wanted to add foreign material or dockage, have the time to do it.

This is a very, very fast bulk handling operation, and I can guarantee you, sir, that it would be very difficult for anyone to think that they were going to make money by deliberately slowing down operations to the point where they could deliberately add trash. I have heard this in the news media.

I just don't think it happens to the extent that the publicity has said that it has.

Mr. BERGLAND. Mr. Chairman, I see that my time has expired. Do we have a response to my earlier question?

Mr. BUTLER. Yes. The fees vary widely among official agencies. I would say that they average about $6 per carload, to use a representative figure. That is as far as original inspection is concerned. I believe the USDA charges in the range of $10 to $12 per car where the grade is changed. There is no charge for the grade as standing.

Mr. BERGLAND. Can you tell if the fee schedule is uniform within the industry?

Mr. BUTLER. No, sir, it is not.

Mr. BERGLAND. One private firm may have a different schedule?

Mr. BUTLER. Yes.

Mr. BERGLAND. Is that schedule available for the committee? Is it published?

Mr. BUTLER. Yes; I'm sure it is. They all are published, and copies are presented to the USDA and approved by the USDA.

Mr. BERGLAND. Thank you, sir.

Mr. DE LA GARZA. The Chair recognizes Mr. Hightower who will yield briefly to Mr. Bergland.

I think Mr. Groot wanted to add something.

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Mr. GROOT. I did bring with me a sample showing the different categories involving foreign material, split kernels and sound kernels. I think this is rather important for reviewing the grade standards. As far merchandising of the grain is concerned, this is very important. If there is interest, I did bring these samples along.

Mr. DE LA GARZA. We would appreciate your making that available to the committee.

Mr. BERGLAND. Mr. Chairman, that's all I have at the moment.

Mr. DE LA GARZA. Mr. Hightower.

Mr. HIGHTOWER. Mr. Spencer, I apologize I had to miss part of your testimony.

Was it your position that you and your group favor the total federalization of inspection processes?

Mr. SPENCER. The original presentation went for State inspection.

Mr. HIGHTOWER. You are not advocating doing away with the private inspection system?

Mr. SPENCER. No. The addendum to our original statement was written after we had access to the administration's bill.

Mr. HIGHTOWER. Has it been your experience inasmuch as you are an exporter that generally these private inspections can be trusted? Have you had good experience with the private inspection system through the years?

Mr. SPENCER. Are you asking me as the chairman of the Grain Grades Committee? I cannot speak for them.

Mr. HIGHTOWER. I'm asking about your experience.

Mr. SPENCER. My own personal experience, not speaking presumptuously in behalf of the committee, is that generally the inspection services have been very acceptable, yes.

Mr. HIGHTOWER. There was some testimony the other day that all of the scandals were perhaps the tip of an iceberg, and that there were scandals throuhgout the industry in the inspection system; the implication of all this was that the chief culprit was the private system because it was a matter of inspecting your own grain, and there was conflict of interest.

What would be your reaction to that? Do you think that the scandals we have seen are the tip of an iceberg?

Mr. SPENCER. I would have to speak again as to my personal experience. In most cases, those who buy the services are both buyers as well as sellers. I cannot believe personally that the fraudulent activity is as widespread as some people would have us believe. I believe these have been unusual individual cases which have been singled out.

Out of 53 indictments, it is my understanding that a great number of these have a relation only to the weighing activity. So, if you take out of the 53 indictments, the numbers who have really been involved—which is a number I don't know—then you are involved in fradulent grading or sampling, and I think it is considerably less than 53.

To answer your question, from my personal standpoint I don't think it is the tip of an iceberg. I would like to think that most of the iceberg has been exposed.

Mr. HIGHTOWER. I appreciate that, and I'm glad to hear it.

I think we have some ice cubes out there, and we should identify them as such.

I believe that's all, Mr. Chairman.

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Mr. DE LA GARZA. Mr. Sebelius.

Mr. SEBELIUS. Thank you. Several things come to mind. But I was interested in the rotation of personnel. That sounds like an excellent suggestion. I'm sure the committee will give it some thought.

Mr. Spencer, I notice that there are no co-op grading companies listed in the membership of your association. Is there any reason for that, or could there be any reason?

Mr. SPENCER. I know of none except that the North Pacific Grade Growers is a co-op.

Mr. SEBELIUS. Is that a co-op?

Mr. SPENCER. Yes.

Mr. SEBELIUS. That's a little ways from Kansas, so I was not too sure of that.

As far as Continental Grain is concerned, they have Mr. Thone who gave them special attention. What interior terminals does Continental have? You mentioned that you thought there ought to be additional inspection in interior terminals. What, if any, interiors do they have?

Mr. SPENCER. Here again I will speak for the committee who agree with us.

Mr. SEBELIUS. What interior terminals does Continental have?

Mr. SPENCER. I cannot name them off. We operate 84 facilities from the originating station to the export house.

Mr. SEBELIUS. In other words, you have a considerable number?

Mr. SPENCER. Yes.

Mr. SEBELIUS. Thank you.

Mr. THONE. Will the gentleman yield?

Mr. SEBELIUS. Yes.

Mr. THONE. Do you have any suspicions that there are problems in the interior market in that you asked for intensification of the Federal supervision in the interior markets? Why do you make such a suggestion in that everything criminal that we have seen has been in the gulf ports. Maybe there was an incident in Oklahoma, I quickly add.

Mr. SPENCER. I don't only suggest, I say that there are definitely problems in the interior. The Federal supervision of the inspection services is very intense at the export houses.

As a consequence, all of the inspectors are very keen on precise and exact analyses.

Mr. THONE. Why have there been 63 indictments down there then?

Mr. SPENCER. I cannot answer that.

Mr. SEBELIUS. I have one final question. It's on a subject basically coming from Mr. Groot's testimony here about a bonus for a low moisture.

He asked why shouldn't we eliminate the—Well you are docked for foreign material, but you don't get a reward for getting below 1 or 2 percent. I was wondering if any of you would like to comment on the testimony that Mr. Groot gave on page 4 where he talks about a bonus for low moisture and some kind of a break if you get on the good side of the entire picture of the grading system. Are there any comments?

UNIDENTIFIED WITNESS. I would respond. They are normally getting premium prices. After all quality functions with price in determining the value of anything. My experience in wheat would be that for any premium product you realize that it is a premium product whether it be moisture, protein or anything else.

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Mr. SEBELIUS. But there is nothing in the grading system that would help the small country or rural elevator in giving a bonus because there is nothing there unless he sold it to a buyer for a specific purpose.

UNIDENTIFIED WITNESS. The standards already reflect that quality consideration and characteristic. The information is there. That's all the standards can do, and probably it's all they should do.

The price should perform that function.

Mr. SEBELIUS. My time has expired. Thank you very much. I will pursue that later.

Mr. DE LA GARZA. Mr. Bedell.

Mr. BEDELL. I think your answer is misleading. The fact is that any farmer who delivers grain to an elevator which is significantly above the specifications for that grade of grain does not get any bonus, if I understand things correctly. Am I correct in that?

UNIDENTIFIED WITNESS. No, I don't think you are correct.

Mr. BEDELL. Tell me where I'm incorrect. All of my people in west Iowa tell me that's what happens. When they deliver grain to an elevator which is substantially below the low moisture requirement or substantially below the requirements as far as foreign matter is concerned, they do not get a premium for their grain.

UNIDENTIFIED WITNESS. I cannot answer that.

Mr. BEDELL. Mr. Groot, can you answer that? Do you know of any farmer who gets a premium?

Mr. GROOT. Not that I'm aware of. The standard is 13 percent for No. 1. Where this gets involved is that in the processing the soybean moisture level needs to be at about 8½ to 9 percent as far as the processor is concerned, and he has to dry them down to that point. So, there is additional value as far as the processor is concerned, from 8 percent to 13 percent. But, as far as the trades are concerned and the standards are concerned, even though there is more value there is no price premium.

Mr. BEDELL. You were not aware of that I take it, that is the gentleman who answered my question?

UNIDENTIFIED WITNESS. I was aware that the moisture appears on the certificate. That's all that the grade standards can do, that is to reflect the quality.

Mr. BEDELL. Mr. Groot, you indicated in your testimony that you did favor Federal inspection of grains at the export point.

Mr. GROOT. Yes.

Mr. BEDELL. Do you believe that should include soybean meal?

Mr. GROOT. Yes, I believe we have a recommendation as part of the national convention that we requested a study be made to establish U.S. grades for soybean meal.

Mr. BEDELL. You would suggest it?

Mr. GROOT. Yes; we would include soybean meal as part of the grading.

Mr. BEDELL. Mr. Spencer, you said that a great number of indictments had to do with the weighing activities so far. Is that correct?

Mr. SPENCER. That's my understanding; yes.

Mr. BEDELL. What would you say is the average investment of an elevator operator?

Mr. SPENCER. In an export house?

Mr. BEDELL. Yes.

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Mr. SPENCER. The average house today would cost between $22 and $28 million.

Mr. BEDELL. What would be your estimate of what it would cost to put in a facility that would mark the weight on the scales so that the scales would print out the weight?

Mr. SPENCER. I believe most export houses now have these.

Mr. BEDELL. What would be your estimate?

Mr. SPENCER. The automation would run between $20,000–$30,000, per scale.

Mr. BEDELL. Then, if this is the part that has had to do with a great many of the indictments and if it is already placed in a great many places, why is it that you feel it should not be mandated so that it is required of people so that the people know that indeed there has not been collusion within the department?

A great many of the people from my area feel that they have been shortweighted.

Mr. SPENCER. I think the allusion to our disagreement was not to the export house but, as I understand it, the amendment says all elevators who are using official services which would mean the smallest country elevator in the State of Iowa which would be required to spend this money if he handles official grades.

Mr. BEDELL. Would you agree with it if it were to say all persons who are supplied from one elevator to another elevator?

Mr. SPENCER. Our point was that the automatic printing does not make it an accurate weight.

Mr. BEDELL. Yes; I understand. But, would you agree that it would be a good thing on all places that sell for exports?

Mr. SPENCER. Yes.

Mr. BEDELL. I think Mr. Bergland was going to request that we get the schedule of fees and that this committee staff get that. Could we do that, Mr. Chairman?

Mr. DE LA GARZA. Without objection, that material will be supplied for the record.

[The information referred to above may be found in the U.S. Grain Standards Act, as amended, published in booklet form by the AMS, USDA, on pages 66 to 69.]

Mr. BEDELL. It was testified that the Department of Agriculture had those fees.

Mr. KELLY. I wonder if I might get a clarification of a question?

Mr. DE LA GARZA. Which question?

Mr. KELLY. Mr. Bedell's last question.

All grain leaving an elevator for export would have this printout device. Did you mean even a country elevator, if the grain leaving was ultimately destined for export, or were you talking about a port side export house?

Mr. BEDELL. The port side is what I was talking about. The problem we have is that a great many elevators in Iowa, rightly or wrongly, believe that they ship grain for export to an export port and then when they receive the weight back from that export port—as was indicated by one of the other gentlemen here—that they question whether the weighing was accurate.

Mr. DE LA GARZA. Mr. Hughes, did you wish to ask something?

Mr. HUGHES. The fact that you do print the scale does not make the weight accurate. I believe one of the indictments at the gulf is that they

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stole a whole barge load which had never been through the house. They printed a false weight certificate for it through one manner or the other.

It does not mean that the grain ever gets out of the barge into the scale. It does not mean that if it's spilled on the ground that it's ever accounted for. There is nobody today in this present system that says "that grain has to be picked up and put into that load."

If they are in a big hurry, then it's not off their back so they will let it lay until they get a chance to pick it up.

Mr. DE LA GARZA. The Chair will be willing to allow Mr. Jones, Judge Kelly, and Mr. Grassley to share 9 minutes.

Mr. Jones, do you have any questions?

Mr. JONES of North Carolina. Mr. Hughes said in his statement about rotating the inspectors. I represent the largest tobacco producing district in the United States. We have Government regulations which actually set the price. They are rotated in order to avoid collusion with a certain warehouseman or farmer. That system has worked almost without criticism for many years.

Another thing that intrigues me about your suggestion is that in my younger days I was a rather active football referee. I'm not sure that solves everything. It does have some merit.

Mr. DE LA GARZA. Judge Kelly.

Mr. KELLY. I have a couple of questions. The routine in Federal Government seems to be that a dragon is created by some isolated examples of trouble and a great deal of emotionalism is brought up here. Then it's decided that we are going to make the world safe for everyone so that the dragon will not get them.

The result is that we start spending a lot of Federal money to solve that problem.

This is the way that government grows as a matter of fact.

I notice here that Mr. Spencer says, "We feel that such supervisory functions should be funded through appropriation." That means the taxpayers will pay for it.

My question to all of you is this and I would certainly like to hear from any of you personally if you have any suggestions in addition to the answers you give now.

Can't we solve the problem illustrated by the indictments without getting involved in a big new Federal spending program that is going to cost a lot of money? In fact, the Government is starving this country's capital markets with its spending. We are going broke. We have to stop somewhere. It is a myth that you are not paying for it; because you are paying for it.

Does the bill really represent the cheapest way to deal with the problem, or are we just getting ready to play the game again?

What is your response to that? Is there a better way? Are we playing the game? Or do you think these bills really represent to you, as hard-nosed, profit-seeking businessmen, the best system you could devise?

Mr. HUGHES. The supervision system has worked well over the years. I don't think the trade is adverse to paying a reasonable fee for that system.

Mr. KELLY. Do you think we need a new system?

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Mr. HUGHES No. If the volume of backing increases and you don't get any more auditors, then you have more chances of people stealing from the bank. All they have to do is to hire a few more Federal auditors and get your supervision in line with the amount of business you are going to do. That's what we think has happened here. The supervision gets dropped way below the volume of business.

Mr. HOFER. I would agree in some respects. I think everyone on the panel probably feels that this system 99 percent of the time has been fine.

To us, to testify against part of it, is like a farmer with a good sheep dog and you caught him sucking eggs. You have to do something about it. Higher penalties would help. The supervision has broken down and the USDA has been culpable.

Mr. KELLY. If you would correspond with me about this, I would like to see if we could avoid spending a lot of money.

Mr. DE LA GARZA. Mr. Grassley.

Mr. GRASSLEY. Do any of the gentlemen wish to answer this? Do you see any parts of these bills putting any small country elevators out of business? That's my number one concern.

Mr. PARKER. I would respond in this way. We had a similar experience to the gentleman from Tennessee. We had a local peanut receiving grading station that was operated by state people. We had to run the farmers' harvest based on the peanut grader's schedule. If you transfer this to an industry that moves as fast as grain, then I think you would place it in a physical and economic straitjacket. As such, I think the local country elevator would be so tied to the grading situation that he would never get the crop harvested.

Mr. HART. Let me respond a moment to that. I've been connected with some elevators besides those in our association.

It seems to me that these graders, like in the Corpus Christi area where the combines are getting bigger, these folks have to work. They don't work from 8 to 5. They work from can to can. They work until they get the job done.

If you turn this over to the Federal Government it is going to be like fussing with the Corps of Engineers about something; you are not going to get anywhere. The Federal inspector is getting his money from Washington and he cannot care less, that is the Federal inspector, about the harvest time or whatever.

The people respond to us now—to the situation. If we change this system and if it is not responsive, then the consumer will pay for it and the farmer will probably go broke.

Mr. GRASSLEY. Mr. Hughes, you said, "We are against all portions of any bill before you that would remove the marketing of grain overseas for the grain trade and turn it over to the agency of the Federal Government."

There isn't anything in any of these bills that's going to have the State do the selling, that is, the Government do the selling?

Mr. HUGHES. You have one bill before you which would turn it over to a corporation.

Mr. GRASSLEY. Maybe that's Mr. Weaver's bill. But, none of the ones that we've talked about so far this morning have that in it, do they?

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Mr. HUGHES. The three bills that are read—one of them had it in it. I believe it's the second one in the list that I got.

Mr. GRASSLEY. I'm aware of that one. I did not think it centered in our discussion today.

Mr. Chairman, I am finished.

Mr. DE LA GARZA. Thank you gentlemen. We thank you for coming. We appreciate this valuable information.

The committee will stand in recess until 10 a.m. tomorrow morning.

[Whereupon, at 12:15 p.m., the hearing was recessed until 10 a.m., September 23, 1975.]

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U.S. GRAIN STANDARDS ACT AMENDMENTS OF 1975

TUESDAY, SEPTEMBER 23, 1975

House of Representatives,
Committee on Agriculture,
Washington, D.C.

The committee met at 10 a.m., pursuant to recess in room 1301, Longworth House Office Building, Hon. William R. Poage (vice chairman of the committee) presiding.

Present: Representatives Poage, de la Garza, Vigorito, Jones of North Carolina, Jones of Tennessee, Bergland, Breckenridge, Richmond, Weaver, Baldus, Krebs, Harkin, Hightower, Bedell, English, Fithian, D'Amours, Wampler, Sebelius, Thone, Symms, Madigan, Heckler, Kelly, Hagedorn, and Moore.

Also present: Robert M. Bor, counsel; John E. Hogan, associate counsel; Eugene Moos, staff analyst; L. T. Easley, press assistant; Glenda Temple and Susan Bell, staff assistants.

Mr. Poage. The committee will be in order. We are continuing the testimony on the Foley-Wampler Grain Standards Act.

We are honored this morning to have with us Senator Clark from the State of Iowa. The Senator has, of course, been associated with the activities on the Hill for a long time and has been before us on many occasions. We know that this is a matter in which you have taken a great deal of interest and on which you have done much work.

We will be delighted to hear from you.

STATEMENT OF HON. DICK CLARK, A U.S. SENATOR FROM THE STATE OF IOWA

Senator Clark. Good morning, Mr. Poage, and members of the House Agriculture Committee. It is a pleasure to be with you today to discuss a problem on which I have spent a great deal of time in recent months—the inadequacy of our Nation's grain inspection system.

As you know, the Senate Agriculture Committee has held a number of hearings—including 2 days of field hearings in Iowa—on the growing scandal in the grain trade. Only last week, the committee completed work on Senate Joint Resolution 88, a temporary measure designed to deal with some of the more glaring deficiencies in grain inspection and weighing, as a prelude to permanent legislation.

In addition, I was able to spend 2 days in New Orleans early in July getting a firsthand look at the pervasive corruption at the Nation's largest grain export port.

The conclusions I have drawn from this experience are embodied in S. 2256, the Federal Grain Inspection Act of 1975. I am very pleased

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that this bill has been introduced in the House, as H.R. 9697, by one of your committee's outstanding members, Congressman John Melcher of Montana.

Our proposed legislation has two central features. First, it would fully federalize U.S. grain inspection, taking it totally out of State and private hands. Inspection by Federal personnel would be required on all export grain, and would be optional at the interior markets.

Second, the bill would establish a new Federal Grain Inspection Agency within the Department of Agriculture, with a Presidential appointee as Director, subject to Senate confirmation. The Agency and its Director would be given the sole statutory authority for grain inspection, grain standards, and for the first time, grain weighing.

There are a number of other important provisions in the legislation. I ask that a summary of the entire bill be printed in the hearing record at the conclusion of my remarks. But this morning, I would like to concentrate on the two basic questions to which Congress must address itself in the effort to develop permanent legislation: (1) What kind of grain inspection system are we going to have—private, State, or Federal? (2) Can the administration of this system, whatever its structure, be entrusted to the Department of Agriculture as it is currently constituted?

It should be obvious by this time that the private inspection system simply cannot be salvaged. Already nearly 60 indictments have been returned as a result of the ongoing Federal investigation of the grain trade, many of these directly related to the inspection system. While most of the indictments have come in New Orleans, the investigation has spread both to other port cities and to interior markets. And no wonder; for the same private inspection system that bred corruption in New Orleans is prevalent throughout the Nation.

To its credit, the Department of Agriculture early this summer finally concluded that the private system had to be done away with. Those in the Department who are truly knowledgeable about grain inspection understand that the present administration position, imposed by the White House, is a wholly inadequate response to this serious threat to our agricultural economy.

True, by severing the direct financial ties between some grain companies and inspection agencies, the administration bill would eliminate the most blatant conflict of interest situations. Nevertheless, private agencies will remain financially dependent on the companies whose grain they inspect. The companies will continue to pay their fees, based on the amount of grain moved. Thus, the income of both the companies and the inspection agencies will continue to be based on the same factor—quantity, not quality.

The conflict of interest provisions proposed by the administration just won't have much impact. In New Orleans, federally licensed inspectors who have been indicted have come from both kinds of private agencies, those owned by the grain companies and those that are seemingly independent.

Increased Federal supervision of the private system won't make much difference either, certainly not at the level proposed by the administration. As practiced in New Orleans, deceptive loading, handling, sampling, and weighing have been highly sophisticated operations. In my judgment, effective supervision of the private system

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probably cannot be achieved without employing one Federal supervisor for each federally licensed inspector and sampler. I cannot imagine a less efficient, more costly solution.

Unfortunately, close examination of State grain inspection agencies reveals that in many cases their track record has not been much better than their private counterparts. You have already been told of the problems with Alabama's inspection system. In Louisiana, where a State agency operates in the Baton Rouge area, indictments against State grain inspectors can be expected in the immediate future. Harlan Ryan, the grain division chief in New Orleans who has done so much to clean up the grain trade there, has told the Senate Committee that corruption in the Illinois State system in Chicago was so widespread that the agency had to be shut down and turned over to private ownership. Information I have received indicates that a number of other State inspection agencies are presently under Federal investigation.

Recently, a GAO investigator in Seattle, where a State agency is responsible for inspection, made an unscheduled visit to a ship waiting to be loaded with grain for export. The ship had been certified as clean for loading by a State inspector. The GAO investigation found the ship's hold so badly infested that the ship had to be fumigated four times before all the insects were destroyed. I don't know whether the inspector had been bribed, or merely had been negligent, and perhaps this was an isolated incident. If so, it was a remarkable coincidence that the GAO man happened to come aboard.

People I have talked with familiar with the grain trade tell me that many State inspection agencies have been poorly administered, and subject to political influence and pressure. Their inspectors are often badly underpaid, leaving them particularly susceptible to bribery. And I don't know how we can hope to achieve uniform grain quality with 50 State agencies performing initial inspections.

If we are serious about restoring the integrity of the Nation's grain trade, if we are serious about enforcing Federal law, then we must entrust that responsibility to Federal personnel. The Federal Grain Inspection Act would do just that.

The bill we have introduced would also establish a new, independent agency, within the Department of Agriculture, to administer the U.S. Grain Standards Act. While it would be housed in the Department, the new agency would have its own, strong statutory authority.

I don't think that grain inspection can be left to the Department of Agriculture, based on its past performance. The revolving door arrangement between high grain company officials and the USDA seems to have taken its toll where grain inspection is concerned. The Department should have broken the present scandal years ago; it had clear evidence of serious problems in the grain trade at least as early as 1968. On September 9 of this year, William Robbins of the New York Times reported that USDA officials "have frequently yielded to industry pressures and ordered unjustified upgrading of quality ratings for export shipments." And in this morning's Des Moines Register, James Risser reports that the Federal grand jury in New Orleans is looking into a possible coverup of grain trade corruption within the USDA's Office of Investigations. Such performance, I believe, demon-

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strates the need for the kind of independent agency envisioned in our proposed legislation.

Mr. Chairman, as I mentioned earlier, the Senate Agriculture Committee has reported a temporary grain inspection reform measure, Senate Joint Resolution 88. I have high hopes for its rapid adoption in the Senate, and I hope this committee will give it early consideration. Senate Joint Resolution 88 contains a number of important features, including registration for grain companies, and authority for the GAO to investigate the companies to determine their compliance with the Grain Standards Act. Given the indictments against a number of the largest grain export firms, such steps are essential, in my judgment.

But Senate Joint Resolution 88 is only a temporary bill. We need tough, far-reaching, permament legislation, and soon, if we are to end corruption in the grain trade once and for all. I don't need to tell this committee of the importance of that task. You know the significance of the grain trade in this Nation's economy, and the role our country must continue to play in insuring an adequate world food supply. That is why I look forward to working with you on this vital legislation in the months ahead.

Mr. POAGE. Thank you very much, Senator. We are always glad to have you with us. I know that you have got to get back to the Senate to tend to other matters. It is our custom to ask our witnesses to all stay until we complete the hearings. I then question them en bloc. I think that if there is anyone who has something which is really important to ask of Senator Clark, then he might do it now. If you want to discuss the general subject matter then please wait for the question and answer period.

Mr. BEDELL. I would like to take this opportunity to commend the Senator for the work he has done on this project. I know he has been in New Orleans personally to check on the matter. I would certainly like to thank him for the leadership role he has taken in this whole issue.

I would like to ask one question. I was over at the hearings you had with a number of importers of soybeans and soybean meal and other grain products. At that time they testified that they would sooner buy soybean meal, for example, from Brazil because they had more confidence in the quality of the product than they did in that of America.

Yesterday in our testimony the Iowa soybean growers apparently agreed that they would favor adding soybean meal to those items on which inspection was required for export.

Would you be in agreement with that or would you tend to question that?

Senator CLARK. I definitely agree. I talked with them about it. I think it is an excellent idea.

Mr. BEDELL. Thank you, Senator.

Mr. THONE. Very briefly, Mr. Chairman, let me say this: I appreciate the great amount of work Senator Clark has done on this, as Mr. Bedell has already stated.

I just wanted to offer, so that it does not come as a surprise—and I am sure it will not—that I most violently disagree philosophically

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that we have to turn this all over to the Federal Government. I think it is the wrong approach, but I understand your position on it and I acknowledge that you have had a lot of interest in this and have spent some time on this problem.

Senator CLARK. Thank you.

Mr. POAGE. Thank you very much, Mr. Thone.

If there are no further questions, Senator Clark, we want to thank you again.

Before we proceed further, let me be sure that we have inserted into the record the basic provisions of the act as presented by Senator Clark.

Without objection, that document will be included in the record.

[The document submitted by Senator Clark follows:]

BASIC PROVISIONS OF THE FEDERAL GRAIN INSPECTION ACT

(S. 2256, H.R. 9697)

I. FEDERAL GRAIN INSPECTION AGENCY

A. Reorganizes the Department of Agriculture to establish a new Federal Grain Inspection Agency, which shall be solely responsible for carrying out the provisions of the U.S. Grain Standards Act.

B. Provides that the Director of the new Agency be appointed by the President, subject to the consent of the Senate.

C. Stipulates that all authority under the U.S. Grain Standards Act previously granted to the USDA (and in practice exercised by the Grain Division of the Agricultural Marketing Service) and the Secretary of Agriculture shall be in the hands of the Agency and its Director.

II. DUTIES OF THE DIRECTOR

A. To establish all policies, guidelines and regulations for administering the U.S. Grain Standards Act, including the setting of standards regarding the inspection of grain and the weighing of grain.

B. To establish procedures for the Agency to inspect and test all weights and scales used in the weighing of grain sold in interstate and foreign commerce.

C. To establish procedures for the Agency to inspect, monitor and standardize all grain grading equipment.

D. Within six months of enactment, to thoroughly review and re-draft where necessary the criteria for the grading and weighing of grain in order to:

1. Encourage and reward the production, maintenance and delivery of high quality grain;
2. Assure that U.S. grain is competitive in reputation for quality in the world market, and
3. Discourage the addition of foreign materials to grain.

E. To report to the Congress within 30 days any official complaint or contract cancellation related to the export of more than 100,000 metric tons of any commodity, and the action taken by the Agency with respect to any such complaint or cancellation.

F. To investigate any complaint or contract cancellation regarding any official transaction with which the U.S. Grain Standards Act is concerned.

III. FEDERAL INSPECTION OF GRAIN

A. All U.S. grain exports must be inspected by licensed personnel of the Federal Grain Inspection Agency at the point of departure.

B. All U.S. grain exports must be inspected by licensed Agency personnel at the point of destination, unless the Director judges such inspection to be impractical in specific cases.

C. Inspection of domestic grain by licensed Agency personnel shall be made available upon request of any interested person.

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IV. GRAIN COMPANY REGISTRATION

A. Any business firm engaged in the buying for sale or in the handling, weighing or transporting of grain for sale in interstate or foreign commerce must register with the Director of the Federal Grain Inspection Agency.

B. Firms that only occasionally or incidentally engage in such business shall not be required to register.

C. Firms required to register shall have to provide the Director with the firm name and principal address; names of all directors, principal officers and persons in a control relationship; lists of locations where the firm conducts substantial operations, and any other information the Director deems necessary to carry out this Act. Firms shall be required to renew their registrations annually, and to report any changes in the required information within 30 days.

D. The Director may suspend or revoke the certificate of registration of any firm found to be in violation of the U.S. Grain Standards Act. The Director shall revoke the certification of any firm convicted of a second violation of the Act for at least six months.

V. CRIMINAL PROVISIONS

A. Defines as criminal actions: deceptive weighing of grain, adulteration of grain, offering of bribes to Federal grain inspectors (accepting bribes is already a crime under the U.S. Grain Standards Act), killing USDA employees (not now a federal offense).

B. Establishes the following penalties:

1. Persons who intentionally or knowingly violate the provisions of the U.S. Grain Standards Act shall be guilty of a felony, with a maximum penalty of 5 years imprisonment, a $10,000 fine, or both.

2. Persons recklessly violating the provisions of the act shall be guilty of a misdemeanor, with a maximum penalty of 1 year/$5,000.

3. Persons who, through gross negligence, violate the act shall be guilty of a misdemeanor, with a maximum penalty of 6 months/$3,000.

VI. FUNDING

The Federal Grain Inspection Agency will be funded through the assessment of inspection fees, which shall be set by the Director so as to cover the costs of the Agency incident to the performance of its duties.

VII. FEDERAL INSPECTION PERSONNEL

A. The Director shall issue licenses to Agency inspection personnel to ensure their competence. No person may perform official inspections unless he or she holds a valid license.

B. No Agency personnel may be financially interested in, employed by, or accept gratuities from any firm engaged in the merchandising of grain.

C. The Director may adopt rules to require the periodic rotation of Agency inspection personnel.

VIII. EMERGENCY POWERS

For 1 year, the Director is authorized to:

A. Issue regulations regarding improved sampling equipment and installation of electronic monitoring equipment in export elevators, and

B. To establish standards and procedures for the loading of export grain.

IX. OTHER PROVISIONS

Authorizes the Director to purchase grain grading and testing equipment at fair market value from private and state inspection agencies, if he determines such equipment to be useful in carrying out the provisions of the U.S. Grain Standards Act.

Mr. POAGE. Our next witness is Mr. Patrick J. Sullivan, secretary-treasurer of the Great Lakes District for the International Longshoremen's Association from Buffalo, N.Y.

Mr. Sullivan, we are glad to have you with us.

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STATEMENT OF PATRICK J. SULLIVAN, SECRETARY-TREASURER, GREAT LAKES DISTRICT, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO, BUFFALO, N.Y.

Mr. SULLIVAN. Mr. Chairman, I do not have a prepared statement.

Myself and the organization which I represent are deeply interested in the proposed amendments to the Grain Standards Act.

My organization is represented, that is, has represented the inspectors and weighers at the Corn Exchange at Buffalo for many, many years. I myself was a grain inspector prior to becoming a union official. I was formerly a fully licensed grain inspector.

The Corn Exchange at Buffalo, since the turn of the century, has served the needs of the grain trade and the consumers without a single incident of corruption or complaint. The system, in effect, has worked and worked well. I am sure throughout the rest of the country that you will find that this is true with the other exchanges.

In New Orleans I think that we have a particular problem. But I am appallingly stressed at the proposal to throw the baby out with the bath water.

I think the entire system should be looked at, and certainly some changes should be made.

One thing that should be borne in mind, I feel, is that if the Federal Government moves for a complete Federal takeover of the grain inspection system, the approximately 3,000 people, who are presently taxpayers, will then become tax eaters. I think that we are all concerned about that.

I think that if anything is apparent in this present case, then we have the fact that the USDA has failed in its responsibility to properly supervise the inspection and the weighing of grain in this case in the South.

I think that there is one unique feature which the private system offers and which the total Federal system would do away with. I am talking of the appeal system where presently a buyer or a seller of grain, if he feels that the grain is not accurate, has the opportunity to appeal to the U.S. Department of Agriculture.

They conduct their own inspection and render a grade judgment.

I think with the emphasis on export grain that it might well be to your advantage to consider the tremendous amount of grain which is used in domestic consumption. I feel that this grain, by and large, is handled by small grain dealers. These people, operating on a marginal basis, I feel could not afford the tremendous cost which would be involved in a completely Federal system.

Furthermore, speaking as a grain inspector and one who knows a good deal about the industry and who was a former grain inspector: I don't think that the Federal system would work.

If it were not properly supervised, then the inspectors, who have not been properly supervised now, would not work out otherwise.

Under the proposed administration's bill I feel that the proposal, with one exception, is a good proposal. The exception that I raise is the issue of the conflict of interest. Again, I will cite my experience in the Corn Exchange in Buffalo.

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The exchange was made up of, at one time, many small organizations as well as some of the major grain companies. Several years ago, several of the major grain companies, for example, Continental and Cargill, pulled out of the exchange and pulled their financial support away from the exchange in an effort, I feel, to cripple the exchange.

Under the act, as it presently stands, if an inspection agency is not available, then the seller of that grain can sell it at his own grade and certify it himself. I think that the small people in the country, that is, the small grain dealers, farmers, and the consumers, need the service of the grain inspection agencies.

My recommendation is that the standards should be tightened and that the factors perhaps should be narrowed. Furthermore, I think that heavier criminal penalties should be imposed for violations of the law.

Finally, I think that it should be noted that because a person happens to be a Federal employee—and especially in light of recent history—doesn't assure that he has more integrity or character or is more honest than a private citizen.

I think that the private grain inspection system under proper regulation can function. After all, there are other professions, which are licensed in this Nation like lawyers and doctors, who have their own societies which largely police themselves. Perhaps the analogy isn't correct but I think in a grain exchange, where you have a buyer and a seller of grain, they can police themselves. I think that the service that is performed is the most economical service.

If we go to a Federal or a Federal/State takeover, then the cost of this service will be inefficient and very, very expensive and in the final analysis is going to hurt the farmer and the grower of the grain—and eventually the consumer.

Thank you, Mr. Chairman.

Mr. POAGE. Thank you very much, Mr. Sullivan. We are glad to have you with us. We hope that you can stay for the question and answer period after the other speakers have made their presentations.

Mr. Jones of North Carolina will introduce our next speaker.

Mr. JONES of North Carolina. It is a pleasure to introduce my friend, George M. Wood, of Camden, N.C. It is a community of about 225 people.

I had the pleasure of serving in the North Carolina General Assembly with George, both as a senator and a representative. I might say that the press is mentioning him for a major statewide office to which I hope he will give full consideration.

George, it is a pleasure to have you.

[The prepared statement of Mr. Wood follows:]

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STATEMENT OF
GEORGE M. WOOD
ON BEHALF OF
NATIONAL GRAIN AND FEED ASSOCIATION
BEFORE THE
COMMITTEE ON AGRICULTURE
H.R. 9467 AND RELATED BILLS
SEPTEMBER 23, 1975

Mr. Chairman and Members of the Committee:

I am George M. Wood, Vice President, F. P. Wood and Son, Inc., Camden, North Carolina. I am appearing today as Chairman of the Grain Grades Committee of the National Grain and Feed Association to testify on H.R. 9467 and related bills.

The National Grain and Feed Association is a voluntary association of grain and feed firms ranging in size from the smallest country elevator to the largest grain and feed complex and it includes merchandisers, processors, country elevators, warehousemen and exporters of a wide spectrum of grains and feeds. Its membership includes 1200 active members and 47 state or regional associations affiliated with the National Association.

The National Association and its members are vitally interested in the integrity of the gra n nspect on system. Our members are users of the inspection service and pay for the service. No inspection agency, board of trade or exchange is an act ve or vot ng member of our association. The Nat ona p ayed a large role in the enactment of the U.S. Grain Standards Act of 9 6 which was designed to resolve inter-market differences in grain grades and to facilitate the efficient marketing of grain. A major effort of the Nationa from 1965 to 1968 was to work for changes in the Act to bring it in ne with changes in the grain marketing system. We also appeared before appropriations comm ttees supporting funds for research for a dev ce or devices which would make the grading of grain more object ve Des ite the expenditure by USDA of $3.3 million to date no tangible results have been forthcoming. We have a so signed a memorandum of understanding with USDA setting up an early alert system whereby scientifically selected country e evators send samples of newly harvested commodities to USDA for inspection to determ ne any unusual or unexpected qual ty prob ems and to advise warehousemen and producers of any conditions requiring special consideration. This gives USDA an indication of crop quality before it gets to an official inspection agency.

We share the concern of your Committee in the irregularities that have been revealed in the gra n nspect on system and appreciate the effort being made to determine the full extent of the irregularities and to correct them. We would hope that there will be no overreaction in the corrective action taken which would seriously affect or destroy the fine grain marketing system which places the American farmers' grains and soybeans into the four corners of the world and greatly enhances our balance of payments.

We would like to comment on three bills. H.R. 8347 would completely federalize the inspection service, increase offenses under the Act to felonies and increase the penalties. We do not object to the latter but we do see many disadvantages in federalizing the inspection service some of which are : 1. Appeal inspections would be performed by the same entity, doing away with the appeal inspection by a disinterested party as exists under the law today; 2. Government employees do not generally provide for the flexibility to adjust to changing conditions such as heavy work loads during harvest; 3. Some inspection agencies are operated on a part-

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time basis and using federal employees for such work would increase inspection costs many-fold; 4. Freezes on government employment could seriously interfere with the efficient marketing of grain; and 5. Costs would probably increase.

H.R. 8764 would, establish a federal-state inspection service; include weighing; require USDA employees to inspect export grain; require the registration of grain handling firms including the suspension and revocation of the registration; restrict official inspection of submitted samples; provide for the refusal of inspection; require the ma ntenance of records and permit examination of same by USDA personnel; prohibit the adu teration" of grain; increase offenses to felonies and increase penalties; and set standards in certain instances.

The establishment of a federal-state system would have all of the disadvantages set forth above in varying degrees. The question of including weighing under the Act without a thorough knowledge of what is involved and without any experience or procedures is inappropriate at this time. If USDA employees had to inspect all export grain, the appeal inspection by a disinterested party would be unavailable. The registration of grain handling firms would place an onerous burden on the industry without any offsetting benefits as would be the maintenance of additional records. Refusal of inspection is already provided for in the Act. We interpose no objection to changing offenses to felonies and increasing penalties.

Sec. 9(2) would appear to restrict official inspection of submitted samples of grain. This would seriously interfere with the present efficient marketing of domestic grain and would be a backward step from the positive action the Congress took in the 1968 amendments to the Act. Many country elevators have installed mechanical samplers approved by USDA which sample the grain as it is loaded into freight cars and their sale is based on the official inspection of the sample. This has removed the requirement for a stop for inspection and has improved the utilization of railroad cars.

Prohibiting the so-called "adulteration" of grain as written in Sec. 12 could be the greatest disservice that the Congress could impose upon producers. Where, due to the vagaries of weather, a farmer harvests a poor quality commodity, under this proposal he would have no opportunity to have it upgraded to place it in the marketing channels. His market ng opportunities would be limited to the local communities. Likewise, where a farmer produced a superior crop his marketing opportunities would be limited since not many buyers would want to pay the premium price. High quality and low quality commodities would each have limited markets and keeping each segregated would place such burdens on country elevators that no one would want to handle them and plug up storage space. By using premium payments and discounts both farmers' commodities can enter the world markets.

Sec. 16, Foreign Materials in Grain, Sec. 19, Protein of Wheat, and Sec. 20, Standards set forth in statutory language those matters over which the Secretary has the authority to establish by regulation under the Act and it would appear inappropriate to so legislate. Sec. 16 would exclude broken corn from the test weight when broken corn has a nutrient value for which the producer was pa d. Sec. 19 is unnecessary as the regulations provide for protein content determination when it is requested. Sec. 20 is likewise unnecessary since the Secretary already has authority to change the standards and keep them up to date. The aw requires a waiting period of not less than one year before changes in standards become effective so as to not disrupt the marketing system. If by inference Sec. 20(b) would require a change in standards each year we would be violently opposed. Such an annual change could result in windfall profits or disastrous losses to those companies or individuals who held the carryover of previous years stocks.

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H.R. 9467 is your bill, Mr. Chairman, which the Administration requested and in doing so indicated that the Federal, State, private grain inspection system now in effect would be retained. Our analysis indicates otherwise since under Sec. 7, conflicts of interest, practically all inspection agencies under grain exchanges or boards of trade would be eliminated.

Sec. 3 which changes Section 7(f)4 of the Act provides for the revocation of the designation of an inspection agency. The proviso on page 7 which permits the Secretary to summarily revoke the designation should require a hearing after the fact with a limitation of time of 30 days. This should impose no undue burden on the Secretary since he should have the evidence in hand before taking such drastic action.

Sec. 4 provides, among other matters, for monitoring activities in foreign ports with respect to grain officially inspected and authorizes the Secretary to contract with any competent person for the performance of those monitoring activities. Sec. 19 provides for the use of appropriated funds for this purpose which is proper since no individual seller receives the benefits, if any, of this service. We would like to point out some of the problems attendant to such inspections in foreign ports. The method of sampling would have to ensure that the sample was truly representative of the entire shipment. Additionally it has to be recognized that grain can deteriorate in transit, particularly if a long transit time is involved or while a ship remains in a congested port for a long period of time awaiting unloading. The conditions of the grain can also deteriorate in the loading and unloading process. In that connection the Committee would be interested in a USDA report, Grain Breakage Caused by Commercial Handling Methods, Marketing Research Report, No. 968, ARS, 1973. Consequently it should not be inferred that the condition of the grain and the certificate reflecting such condition would be identical to the certificate issued when the grain was loaded. Furthermore, we believe that the person performing the service should be a U.S. citizen subject to the laws of the United States.

Sec. 7 amends Section 11 of the Act to prohibit, in most instances, a board of trade or grain exchange from operating an inspection agency. There are many, and we believe most, honest and efficient official inspection agencies which provide a necessary service to the agricultural community, including producers. Where the inspection agency is properly supervised by USDA as required by the Act and Regulations the validity of the inspection results should be ensured. To destroy these agencies without a hearing or without the finding of any wrong doing would be unconscionable.

Sec. 8(b) amends Section 12 of the Act to require record keeping for a period of 5 years and authorizes the Secretary's representative to have access to and copy such records and have access to the facility. We can only comment that we hope we don't see the day when government employees from USDA, OSHA, EPA and others outnumber the regular employees.

Sec. 10 amends Section 16 of the Act and among other things authorizes the Secretary to require by regulation as a condition for official inspection the installation of specified sampling and monitoring equipment in grain elevators. Without knowing of the type of monitoring equipment, the purpose of such monitoring, or the expense of the equipment we cannot endorse such a proposal.

In conclusion, Mr. Chairman, we consider that the 1968 Act has done a commendable job in carrying out the "Declaration of Policy" in moving enormous quantities of grain. Criminal activity and lax supervision have created an aura of suspicion over the entire inspection system. We would hope that the amendments to the Act will reflect our concern and recommendations and continue to carry out the "Declaration of Policy" of the 1968 Act.

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Mr. POAGE. Thank you very much, Mr. Wood. We appreciate your thinking on this. If you can stay with us, we will be glad to discuss it with you further.

Our next witness will be Mr. Virgil A. McNamee.

Mr. McNamee, we will be glad to hear from you at this time.

[The prepared statement of Mr. McNamee follows:]

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NATIONAL ASSOCIATION OF CHIEF GRAIN INSPECTORS

LEGISLATIVE COMMITTEE

Virgil A. McNamee, Director and Past President

Ted P. Hoelck, Director and Past President

Joseph L. Slater, Secretary-Treasurer

Statement of the Association

I am Virgil A. McNamee, a Director of the National Association of Chief Grain Inspectors and am the Chief Grain Inspector for the Toledo Board of Trade. I am making this presentation on behalf of the members of our Association. Cooperating with me will be Ted P. Hoelck, also a Director of our National Association and Chief Grain Inspector of the Hastings Grain Inspection Inc. also, Joseph L. Slater, Secretary-Treasurer of our Association and Chief Grain Inspector for the Davenport Grain Exchange.

We appreciate this opportunity to discuss our activities as Federally licensed inspectors and present our views on the H. R. Bills to amend the United States Grain Standards Act.

The members of our Association are Federally licensed grain inspectors from State Departments of Agriculture, Boards of Trade, Grain Exchanges Chambers of Commerce and Independent Grain Inspection Agencies. We have provided continuous necessary, and unbiased initial grain inspection service since the first Grain Standards Act was written in 1916 and substantially revised in 1968.

This Association was started in 1948 and has been meeting regularly with members of the United States Department of Agriculture, Grain Division. These joint conferences provided annual opportunities for discussions of inspection problems both export and domestic. Proposed changes in grain grades were discussed and U.S.D.A. instructions and interpretations of the Regulations were explained. The purpose was to cause uniform application of the official grain standards across the United States and to foreign countries.

The "Purposes and Aims" of this Association are primarily to promote a close understanding between the Federal supervision service and the licensed grain inspection services; to provide a medium whereby Chief Inspectors and Assistants may promote policies to help maintain efficient grain inspection services and to make available a common forum where representatives of the U S Department of Agriculture Grain Inspection Departments and Grain Trade Associations may jointly discuss problems or improvements aimed toward rendering an impartial and unbiased grain inspection service These Chief Inspectors have a vested interest in promoting and improving the grain inspection system and have often offered to assist in developing improvements.

Chief Grain Inspectors are licensed by the U. S. Department of Agriculture to perform initial inspections and grading of grain in specific areas under the U S. Grain Standards Act amendments issued under the Act, and the Secretary's regulations concerning the operation. According to Federal figures there are approximately 800 licensed inspectors and approximately 2,000 licensed samplers and technicians working with and for inspection agencies. The licenses of these people must be renewed each three (3) years.

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Out initial inspection activities have been and are supervised daily by Federal employees. This supervision includes inspection procedures, grading observations, as we as regrading file samples for agreement on grade factors. According to rules of our present system, when a party to a grain sale is dissatisfied with the results of the initial inspection, he can appeal the grade to the Grain Division of the Department of Agriculture and receive a new separate analysis and grade. He also has the right to obtain a final grade from U. S. Department of Agriculture, Board of Appeals and Review. This system of checks and balances has worked very well for many years. We cannot now consider proposed radical changes to be an improvement to the system.

Our National Association does oppose all proposals to change the grain inspection system from a supervised private enterprise system to a total public employee system, either Federal-State or entirely Federal Our record of accuracy compared with Federal supervision and appeals is excellent especially when you note the questionable or border-line grade factors and the accuracy of the required inspection equipment. This over-all inspection accuracy of more than 95 per cent has been performed and continues to be performed at a reasonable cost when the service is requested, for the impartial benefit of farmers, storage elevators, millers, processors, merchandisers, the Government, and the exporters.

We are aware of the reports of convictions of a few licensed samplers and inspectors which equals less than 1/2 of 1 per cent of the licensed personnel in the United States. We have also been reading reports about public employees of cities, counties, States and Federal who have been indicted for frauds and bribery Therefore we do not see merit in a proposal to cause initial inspections to be performed entirely by public employees, either Federal-State or entirely Federal. We do believe that violations of the U. S. Grain Standards Act, for such deeds as bribery or conspiracy should be prosecuted; that such people be removed from the grain inspection system. The U. S. Department of Agriculture is charged with enforcement of the Grain Standards Act and an improved supervision system can cause improvements to the present, good grain inspection operation.

H.R. 8764 provides for all grain inspections to be performed by public employees either Federal-State or entirely Federal, which we do oppose The proposed over control of the grain business through complete registrations and operation regulations would cause a new expensive operation when charged to the industry, would cause lowering the producer income and could damage the U. S. balance of payments from farm products.

Comments on other sections of this H. R. Bill, which we oppose, are as follows:

The present definition of foreign material in grain includes "other grains" which should not be termed as "dockage".

The present system of performing initial inspections and some appeal inspections at the loading elevators for rail cars and ship lots, have been developed during the past 20 years, to provide a necessary grain inspection service at a reasonable cost and has proven to be an aid to uniform grain loading.

In our zeal to improve the grain grade standards in these United States, we should not lose sight of the fact that these grain grades are commercial grades, designed for the promotion and protection of commerce in grain, in the interests of producers, merchandisers, warehousemen, processors, exporters, consumers and

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the general welfare of people of the United States. These grain grades are and should continue to be practical, reasonably fast to assess, objective, and timely, to be useful to the traders in grain from the producers to the exporters and consumers.

The protein content, gluten quality, oil quantity, oil quality, potential kernel breakage presence of toxins and analysis of food values can be obtained now from approved commercial laboratories on request of an interested party through the inspection agency. Such tests are more sophisticated take more time to perform, and are not now practical for commercial grading of grain moving from the producer to the exporter When the need for change in grading factors are promoted by interested parties and approved by the U. S. Department of Agriculture, the present grain inspection system can enforce them.

The official weighing of grain is performed by weighmen, who are employees of grain elevators and mills, licensed and bonded by a weighing agency. These official weight certificates are issued under regulations of the Interstate Commerce Commission. The clas ification of markets and weighing operation is performed according to rules of the Association of American Railroads and cooperative supervision by employees of the Eastern-Southern and Western Weighing and Inspection Bureaus. Markets, such as Toledo have a Manager of Weights who enforces the rules of the Association of American Railroads which includes testing of scales at least twice per year The weighing operation actions of the weighmen and condition of equipment are spot-checked daily by an authorized supervisor of weights. When you consider the millions of lots of grain officially weighed each year, the changes in weights due to respiration and dry matter loss in handling, an over-all good job is being performed.

H. R. 8347 and H. R. 7442 both provide for official grain inspection of grain by Federal employees only, which we do oppose.

The stated primary proposals to cause initial inspection of grain by Federal-State or by only Federal employees would not improve the quality of our export grain. Public employee personnel, as well as privately employed licensed inspectors grade grain by the same U. S. Grade Standards. Under a Federal system, there would be no separate group to perform appeals requested by interested parties. The record of Federal supervision of licensed inspectors work does prove competent, accurate, inspections of grain by licensed inspectors, both domestic and export. We believe that the present Grain Standards Act gives the U. S. Department of Agriculture the necessary power and authority to control grain inspection operations, without drastic changes in the inspection system.

We have been requested to make some suggestions to improve the grain inspection operation. We recommend that:

1. Increase the penalties for proven briberies (both the bribee and the briber) and conspiracies so people will not be enticed or coerced to participate.

2. The U.S.D.A. supervision by knowledgeable employees should be increased as well as some inspection agency employee supervision be improved to help correct any faults in our grain inspection system.

3. The U.S.D.A. could arrange for Federal and/or licensed inspectors to spot-check some shipments of grain at foreign ports prior to ship unloading.

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4. Increase the penalties for exporting grain sold by grade, which has not been officially inspected.

5. The penalties for plugging truck lots, car lots, barge lots or ship lots of grain be increased to deter such actions.

6. Require improved inspection and sampling equipment, especially at export elevators including monitoring equipment, be installed.

7. Cause U.S.D.A. to put serious efforts into developing improved inspection equipment.

8. Cause the U. S. Grade Standards to be reviewed for possible improvements according to statutory procedures, specifying that grades be in accord with necessities of the Trade.

We sincerely believe there is no way for Federal initial inspection of grain to be of benefit to the producers, to the storage elevators, to the millers or processors, to the exporters, to the foreign buyers, and in no way would improve the general welfare of the people of the United States.

We thank the House of Representatives, Committee on Agriculture, for this opportunity to appear and to testify on behalf of the licensed inspectors and inspection agencies of our National Association and trust that serious thought will be given to any changes in our grain inspection system.

Thank you.

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Mr. McNamee. Mr. Chairman, I would like to have inserted into the record a letter which we have written to Mr. Foley in reference to H.R. 9467.

Mr. Poage. Without objection, the letter will be made a part of the record.

[The letter submitted by Mr. McNamee follows:]

September 22, 1975.

Hon. Thomas S. Foley,
Chairman, Committee on Agriculture, House of Representatives, Washington, D.C.

Dear Mr. Foley: The statement of the National Association of Chief Grain Inspectors was printed prior to knowledge of the contents of the Department of Agriculture Bill H.R. 9467.

We trust that this letter will be accepted and made a part of the record, as it relates to all three sponsorships of grain inspection agencies, referred to in H.R. 9467.

The most of this Bill, we can support, but three items need some change or clarification.

No. 1—The triennial renewal of the franchise of any Agency does appear to be a waste of time and effort. All Agencies are apparently going to be required to submit quarterly reports and payments to U.S.D.A. and have records available for U.S.D.A. examination. The possibility of a triennial franchise closing of a business help stabilize the thoughts of licensed employees nor be the best recomendation or cooperation of the Banks for operational funds.

No. 2—The idea of a Federal supervision fee is not new. Some such fees, in one form or another have been promoted by the U.S. Department of Agriculture for 15 years or more. Now it looks like a blank check type. Mr. Feltner has stated that about 40 per cent of the Federal employee's time is spent on appeal work. He did not relate the amount of time spent on commodity checking and travel. There are records to show that approximately 2 per cent to 3½ per cent of the licensed inspectors work has been supervised in recent years. If we have 3 per cent supervision, why should we be required to pay a fee on 100 per cent of our grain certificates issued? The idea of paying the total cost of a supervision and administration service, with no recourse, is certainly reason for second thoughts in a business, especially during a year of poor volume of inspections. During such times, Agency personnel can be temporarily reduced, but Civil Service employees have not been as flexible.

The third and last item does not effect the 23 State Agencies nor the 47 Independent Agency members of our Association. Therefore, this part of this letter is in support of the 41 Boards of Trade and Grain Exchange groups who sponsor grain inspection Agencies. It was a surprise to me that the U.S.D.A. did pick on and decide to destroy the groups who gave the most time, money and energy to help develop improvements for the grain inspection system. It was Board of Trade inspectors who spent time and money to push the development of diveter-type mechanical samplers and cause many elevators to spend money to modernize. It was Board of Trade inspectors who improved and spread the use of North artificial lights and improvements to the Motomco moisture meters after U.S.D.A. approval. It is now Grain Exchange Inspectors who are developing color slides for line grain grade factors. Would these or other improvements have been made by some other less dedicated group?

Some Boards of Trade and Grain Exchanges started prior to 1900 and are still giving services to the Trade (from the farmer to the exporter) other than and including grain inspection. Today, the majority of Boards of Trade and Grain Exchange inspection Departments service many firms and elevators in their Area, and are not controlled by one firm. The members hire a Chief Inspector who operates the Inspection Agency according to the Rules and Regulations of the Act, and is not hampered nor threatened by the members. The primary function of Directors of Boards of Trade and Grain Exchanges, concerning the inspection Agency, is to check financial statements to be sure of honest administration and to adjust fees to keep the Agency up-to-date.

H.R. 9467 could be a good improvement to the Act if a basic change were made where Boards of Trade or Grain Exchanges were serving several firms; example: 5 or more, and a clarification of, and a more reasonable description of the designation fee charges were made.

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We trust that these hearings will cause improvements to a grain inspection system which is already the best in the World.

Thank you for permitting this testimony.

V. A. McNamee, *Director,*
National Association of Chief Grain Inspectors,
and Chief Inspector, Toledo Board of Trade.

Mr. Poage. Our next witness is Mr. C. G. Mathews.

Mr. Mathews. I would like to have the appendixes, which are attached to the statement, entered into the record.

Mr. Poage. Without objection, the appendixes will be entered into the record.

[The prepared statement and appendixes submitted by Mr. Mathews follow:]

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STATEMENT OF C. G. MATHEWS; EXECUTIVE VICE PRESIDENT
representing FORT WORTH GRAIN EXCHANGE 2707 Decatur Ave.
P. O. Box 4422 Fort Worth, Texas 76106, September 23, 1975

I want to thank you very much Mr. Chairman, and distinguished members of the Sub-Committee, for the opportunity to testify before you today on H.R. 7442, H.R. 8347 and H.R. 8764. However before I comment on these Bills I think it appropriate to give some background on our operation.

I have been the General Manager of the Fort Worth Grain Exchange since May 1963. I am not engaged in nor do I have any interest, direct or otherwise, in grain marketing or storage or the physical handling by transportation or otherwise In my position I have had oversight and responsibility for the various functions of the Exchange; both operationally and economically. We have three departments (a) Grain Inspection; (b) Weight Supervision; and (c) Protein Laboratory Each of these departments are staffed with qualified and competent personnel.

HISTORY

The Fort Worth Grain Exchange was estabilshed in 1907 for the purpose of establishing uniform grades on Grain and to provide for the inspection of grain as well as the dissemination of information which would promote the orderly marketing of grains This was two years before the Grain Dealers National Association adopted national grain standards and nine years before passage of the United States Grain Standards Act, 1916.

Since that time primary inspections have been made by inspectors employed by Exchanges, Boards of Trade, private inspectors and to some extent various States. Appeal inspections are performed by Licensed Inspectors in the various Field Offices of the United States Department of Agriculture. Finally, Board of Review Appeals are performed by USDA Licensed Inspectors in Beltsville, Maryland.

The Fort Worth Grain Exchange is a non-profit corporation which is composed of 36 members, including individuals brokers, persons employed by grain firms, feed and flour mills country elevators, stock brokers and newspapers, and no single firm has more than three employees who are members. In other words no one firm has more than 9% of the total membership. None of the Officers Directors Committees or Members exercise nor do they provide any technical instructions to our employees. None of the employees nor their close relatives are engaged in the grain business. All of our samplers, laboratory technicians and inspectors are licensed by the USDA only after having demonstrated their ability to perform certain functions involved in the Official Inspection of Grains. There has been no taint of scandal in connection with the Fort Worth market.

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The storage capacity of grain storage facilities at Fort Worth, Texas is 59,000,000 bushels which is about sixth or seventh in the United States. During the last 10 years a total of 429,546 carloads of grain or grain products have been weighed, both unloaded and loaded, at the facilities under the supervision of our Weight Department.

GEOGRAPHICAL AREA OF OPERATION

INSPECTION DEPARTMENT

Licensed Inspectors employed by the Exchange have performed Inspection of Grains for the general public as well as members of the Exchange in the Fort Worth area since 1907.

We have inspected wheat for several years for the Waco, Texas area; however since the Licensed inspector who was in Waco failed his renewal examination for his Grain Sorghum license we have been performing inspections on their shipments of Wheat and Grain Sorghums.

Since 1969 we have operated a sampling station in the Brownwood-Coleman-Tuscola, Texas area. Our licensed sampler probes the grain and sends the samples to our Fort Worth laboratory for grading and protein analysis.

With the closing of the Dallas Grain Exchange in August 1973 we responded to the request of firms located in Dallas and Denton, Texas by performing sampling and inspection of grain received at and shipped from these towns.

With the closing of the Sherman, Texas Grain Exchange in 1974 we responded to the needs of firms in that area by operating a sampling station whereby samples are obtained by a licensed sampler and sent to our laboratory in Fort Worth, Texas for grading and protein analysis.

Mr. Chairman, I submit that we have made the Inspection of Grains available to meet the needs of our area on a reasonable fee basis-the same for all-which is non-discriminatory. We haven't lost our integrity therefore we don't need to restore it. Our fees for grain inspection are kept at a minimum, having been increased only one time in the last twelve years (October 1, 1974).

There are many inter-related factors in the growing, harvesting and marketing of this nations grain crops. The harvesting of our grain crops moves at a much faster pace now than it did just a few years ago. The railroads now haul a major portion of the grain in covered hopper cars whereas it used to move in forty foot box cars. Therefore the sampling techniques have changed; however the inspection methods are the same except there have been improvements and innovations such as: Motomco Electronic moisture testers and Strand shaker-sizer which is used in separating shrunken and broken kernels of wheat from the test sample.

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Whenever the regulations required the use of the Motomco Moisture tester; Strand shaker-sizer; retention of file samples; etc we have complied therewith. We have even gone beyond requirements and installed special lighting which is approved by USDA but not mandatory.

The volume of grain to be inspected is extremely variable from month to month and year to year. During the past ten years the annual volume of inspections on carloads, truckloads and submitted samples has ranged from about 20,000 in the low year to about 65,000 in the high year. On a monthly basis our lowest has been around 850 whereas our largest has been approximately 12,256.

PROTEIN LABORATORY

Our protein laboratory is located in the same facility as the Inspection Department; however in separated quarters. Our chemist holds his BS degree from Texas Wesleyan College. We use the Kjeldahl procedure which is fully recognized by the American Association of Cereal Chemist. It is my understanding that most laboratories who run protein test on grain use this method. Periodically the Lone Star section of the AAOCC exchange test samples and reproduce the results In addition to this testing we exchange test samples with other laboratories from time to time.

Our chemist has found that reruns on the same sample with the Kjeldahl method we use he can expect an average deviation of 0.10%. During the heavy part of the wheat harvest we are equipped to run 400-500 protein analysis by working 10-12 hours. During this past wheat harvest our laboratory was working 7 days a week for over two months.

It is essential that the protein tests be kept current with the inspection of the grain so that the owner can make timely disposition of the rail cars to avoid unduly delaying them. If they are not released promptly then the customer incurs additional reconsignment and demurrage charges; and it creates bottlenecks in our nations transportation system.

WEIGHT SUPERVISION DEPARTMENT

The Association of American Railroads recognize Fort Worth grain elevators and feed mills as being a Class 2 Official Weight market. Under Texas laws there are three ways a person can qualify as a Public Weigher (1) Independent (2) Appointed by the Governor or (3) Elected Public Weigher.

Our Chief Weighmaster qualifies through the offices of the Governor, Secretary of State and Texas Department of Agriculture and is Appointed by the Governor. In accordance with Texas Laws our Chief Weighmaster has the power to appoint Deputy Public Weighers. A bond in the amount required is posted by the Public Weigher and his deputy appointees.

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Also under the Texas law any person doing public weighing for hire or who issues a weight certificate upon which the purchase or sale of the commodity weighed is based, must first qualify as a public weigher and secure a Certificate of Authority from the Commissioner of Agriculture.

Our weight supervision department uses the "Handbook of Uniform Instructions for the weighing of Grain issued by Terminal Grain Weighmasters National Association" as their guide in instructing their appointees in the proper weighing procedures. Each facility uses pre-numbered weight Certificates and maintains loading-unloading sheets in accordance with A of AR and WW&IB regulations.

Some of the facilities located at Fort Worth which are under the supervision of our Weight Department have railroad track scales and others have Hopper Scales. However none of them are equipped with devices which automatically stamp weights on the weight certificates.

All of the scales whether they be track or hopper are tested twice each year by the State Department of Agriculture or the Railroads with their test cars. The Scales must meet the tolerance requirements of the U.S. Department of Commerce, National Bureau of Standards which has been adopted by the State of Texas. Other regulations in NBS Handbook 44 govern acceptance and use of these scales.

Representatives of the railroads and Western Weighing & Inspection Bureau also assist in the supervision and checking the accuracy of the Official Weights at Fort Worth as well as check on the railroad cars for possible leaks that cause differences in origin and destination weights. Many times the origin weights are only estimated and the shipper does not have the railroads weight the cars near the origin.

COMMENTS ON HR 8764

After reviewing the content of H.R. 8764 and some of the testimony on S.J. Resolution 88 pertaining to Grain Inspection Irregularities and Problems it seems as though someone wants to toss the whole barrel of apples in the garbage instead of "plucking out" the bad ones. This just doesn't seem to me as being a prudent decision. It is wrong to condemn the present inspection system-nationwide because of the actions of a few.

Representative Edward Koch (D., N.Y.) adressing the House of Representatives July 29, 1975 (Pages H. 7804, H. 7805 of Congressional Record) stated in part "Corruption appears to be pervasive in our society. I am thinking not simply of the public officeholder who betrays his trust--a corrput former President, a convicted Attorney General, police officers who extort bribes, building inspectors who exact illegal commissions. What also troubles me is the corruption of our ordinary citizens"----

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"I am equally persuaded that the white-collar criminal, the corrupter will be deterred and reformed if he or she serves just 30 days behind bars."

It must be true then that a persons honesty is not determined by whom he is employed, whether it be private, public, Association, City, State or Federal. If it takes stiffer fines and penalties and increased supervision to correct these abuses then we wholeheartedly support them.

Testimony in S.J. Resolution 88 (Pages 20-21) shows that Supervision by USDA personnel was reduced from 182 to 154 man-years between 1969 and 1974. During this same period of time exports had increased from 1.4 to 3.4 billion bushels.

In June 1970 we became aware of a proposed reduction in the work forces in the USDA Grain Division Office at Fort Worth. Appendix A (Page 1) is a copy of our Western Union Telegram pointing out that we felt that:

> "Any reduction of this 5 man office will weaken reliability of supervision"

Page 2 of my Appendix A is a copy of Mr. Lacey Sharp's letter of July 8, 1970 advising they would "watch" that situation at Fort Worth and should they need another supervisor one would be supplied.

Since that time the work force has remained the same, except for two trainees they now have and occasionally an additional inspector is brought in to help grade appeal inspections. One would have to conclude from this that no real problems exist in the area under the jurisdiction of the Fort Worth Field Office.

Also attached is my Appendix B (Page 1) which is a letter from Mr. E.L. Brown, Head of Commodity Inspection Section, Commodity Inspection Branch, Grain Division, CMS-USDA complimenting us for doing a "good job" and expressing their appreciation. Page 2 of my Appendix B is a letter from Mr. D.R. Galliart, Director Grain Division, AMS-USDA explaining the reasons for cancelling our Cooperative-Agreement for providing samplers for and supervising them in their commodity work. The USDA has since contracted individually with those who previously did this work for us on a part time basis. I don't know but can only assume that a reorganization of the Commodity Inspection, now working out of Wichita, Kansas in an effort to economize, together with our request for a modest increase in remuneration had some bearing on their decision. Never the less we were assured that:

> "cancellation of the agreement is not a reflection on your organization"

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It would seem rather difficult and expensive for someone in Wichita, Kansas to be supervising Commodity Sampling in Fort Worth, Texas.

The Fort Worth Grain Exchange, through the years, has had a training program whereby our samplers were taught technician's functions and encouraged to study for inspectors license. We have provided hourly increases in salary scales for various license they are granted after passing the USDA test. We have produced our own inspectors.

Through the years several persons who worked for the Fort Worth Grain Exchange as samplers have been employed by the USDA Grain Division. They are all inspectors and I understand one is now on the Board of Review. To the best of my knowledge all of them are competent people.

We strongly object to the provisions of Section 2 of the BILL as this would eliminate all inspection agencies that are independent and sponsored by Boards of Trade or Exchanges; leaving only Federal or State. I think the Fort Worth Grain Exchange and many others have performed an outstanding service to the entire grain industry all the way from producer, country elevator down to the consumer.

I also feel that a good number of licensed personnel would not go to work for the State of Texas or USDA simply because of being subjected to periodic transfers to different locations.

In our particular operation none of our personnel are on an assigned basis at any elevator or area of town. All of our samplers are working on a floating basis wherever the sampling is to be done and all of our inspection work is done in facilities owned by the Exchange. We do not lease from nor are we located adjacent to any grain firm.

We have no objection to Section 3 of the BILL which would make "deceptive weighing" subject to penalties comparable to deceptive loading, handling or sampling, however; do not know if this is the appropriate place for such change. The various States already have laws relating to this and a large precent of the transactions between producer and first sale are Intrastate Commerce. We do not object to the requirement that all scales used for weighing grain mechanically and automatically stamp the weights on scale tickets. I think sufficient time should be permitted for such modifications to be accomplished in an orderly manner.

Registration regulations as proposed in Section 8 of the BILL would require, just to be on the safe side, every country elevator in the United States no matter how small. While most of his transactions may be within a state some such transactions could be converted to Interstate or export by his customers with or even without his knowledge. This Section needs a lot of clarification as to who would be required to register. Would the present employees be able to handle this program, or would it require additional personnel?

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We support Section 10 of the BILL. As a matter of fact we are constantly on the alert for any conflicts of interest and ever since I have been manager of the Exchange that is one of the first areas we go over with new employees.

We wholeheartedly endorse the provisions in Section 13 of this Bill which would substantially strengthen the Penalties for Bribery and Interference with Official Inspection Personnel, however it should be amended to cover all Inspection personnel, not just Federal or State.

Section 16, relating to foreign material in grain, brings up a question in our mind. How can this be policed at the producer level where he has wild oats, chess, rye, vetch or weed seeds in his crop?

We object to Section 18 of the Bill as being arbitrary and capricious.

We object to Section 19 of the Bill which would place the regulations and procedure of running protein test in the hands of the USDA. This section also shows the intention of authorizing only State agencies to conduct protein test We maintain a full time chemist with a complete Laboratory and have been doing a good job of running protein test in accordance with procedure recognized by the American Association of Cereal Chemist. There is no valid reason why we should be legislated out of business.

We would like to go on record as being 100% opposed to HR 7442 and H.R. 8347. Both of these Bills would eliminate primary inspections by private inspectors, Boards of Trade, Exchanges or State inspection departments

Mr. Chairman, we have not had an opportunity to review the proposed Bill sent by the Secretary of Agriculture to the Honorable Nelson A. Rockefeller on September 2, 1975; therefore would request more time in which to submit additional views. However after a very hurried examination of the Bill we feel it is important to point out some objectional provisions.

The proposed new explanation of the terms "official inspection personnel" and "official inspection agency" in Section 2 of the proposed Bill would appear to preclude the operation of an Inspection Department by Boards of Trade or Grain Exchanges.

We object to Section 7 of the proposed Bill which would also appear to automatically preclude Grain Exchanges and Boards of Trade from operating an Inspection Agency.

The Fort Worth Grain Exchange has operated a Grain Inspection Department, in accordance with the provisions of the Act, for over half a century. The Inspection Department is under the primary oversight of our Chief

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Inspector, and in his absence the Assistant Chief Inspector. They provide all technical advice to the samplers, technicians and inspectors. The entire operation of our Inspection Department is under the constant supervision of the USDA Field Office located in Fort Worth, Texas. Our Inspection Department employees meet the requirements of the USDA before being issued license to perform specified functions. We maintain a program of training our samplers to become grain inspectors. None of the members, committees, officers or Directors of the Exchange exercise any technical control or influence over the work of the Inspection Department employees. The members of the Fort Worth Grain Exchange have traded large volumes of grain between themselves and others, for many years, based upon the integrity of the Fort Worth grades.

Members of the Fort Worth Grain Exchange have put forth efforts through the years to encourage and promote uniformity in all aspects of Official Inspections and Grades. We have never been told that we did not meet the requirements of the Act in operating the Inspection Department. As a matter of fact Mr. Henry L. Joyce, Federal Coordinator of USDA, Hyattsville, Maryland was in our offices earlier this month to review our records and operation. He made two suggestions: (1) Our Chief Inspector obtain a current chapter on Oats and (2) we keep a monthly record of the Inspection Certificate numbers used. Both of these matters have been taken care of.

Section 3 of Mr. Butz's proposed Bill outlines some requirements and guide lines for Official Inspection Agencies to meet. It is my opinion, based on over 12 years of having Managerial responsibility over all functions of the Fort Worth Grain Exchange, that we fully meet the requirements of Paragraph (A) (i) through (iii) and (v) through (vii). The provision (iv) which states "does not have a conflict of interest prohibited by Section 11 of this Act;" is a condemnation of Inspection Departments operated by Grain Exchanges, without just cause.

Section 13 (7) of the present United States Grain Standards Act specifically prohibits anyone from "improperly influencing or attempting to improperly influence, any official inspection personnel or any officer or employee of the Department of Agriculture with respect to the performance of his duties under this Act."

On May 6, 1963 the Board of Directors of the Fort Worth Grain Exchange adopted the following resolution:

> "Member firms shall be prohibited from giving to employees of the Grain Exchange any gifts or gratuities. In the event this provision is found to have been violated, both the member firm and the employee will be subject to disciplinary action. (The Secretary was instructed to write a letter to member firms advising them of this resolution requesting that receipt of and understanding be acknowledged. All employees of the Exchange are to acknowledge understanding in same manner)."

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This has been a continuing policy of the Exchange. Our Exchange is not a profit oriented or motivated enterprise but rather one of performing reliable services to the grain industry (farmer to consumer) at an economical cost. All of our fees are the same for everyone, there is no discrimination.

During August 1975 the Grain Inspection Department of Fort Worth Grain Exchange issued grades on 6,732 carloads, truckloads and submitted samples and had requests for only 3 reinspections. I personally believe this speaks strongly for the integrity of our people and their ability to properly and fairly determine the quality of grain.

It is unjust and unreasonable to preclude the continuation of the Inspection functions at Fort Worth in their present basis just because of what happened at New Orleans, La. or anywhere else. Each Inspection agency should stand on its own merits. You cannot make all people honest by making them employees of a State or Nation.

In closing we pray that your Committee will exercise good judgement and agree that those Inspection Agencies which have complied with the regulations and meet the requirements shall be permitted to continue.

Thank you Mr. Chairman for the opportunity of presenting our views.

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FORT WORTH GRAIN EXCHANGE

P. O. BOX 4422 • 2707 DECATUR AVE.
FORT WORTH, TEXAS 76106

Appendix A
H. R. 8764
(Page 1)

OFFICERS
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JOHN T. SIMONS, VICE-PRESIDENT
W. P. SMITH, TREASURER
C. G. MATHEWS, SECRETARY

DIRECTORS
W. L. NEWSOM
JOHN T. SIMONS
W. P. SMITH
J. E. BALTHROP
E. L. COLLINS
C. J. SUGDEN
LLOYD WILSON

June 29, 1970

To All Members

Gentlemen:

Please refer to my letter June 23 regarding "Reduced Force USDA Grain Division Office at Fort Worth." The following Western Union has been sent to Congressman Bob Poage, Chairman of the House Agriculture Committee and other Texas Representatives:

> "The Fort Worth district office USDA-Grain Division is presently a 5 man office and our opinion under staffed. It is their responsibility to supervise sampling and official inspection of whole grains and soybeans at Amarillo, Dallas, Farwell, Fort Worth, Lubbock, Plainview, Sherman, Tulia, Waco and Wichita Falls Texas under the United States Grain Standards Act. That office also has supervision over sampling commodities, i.e. Flour, Meal, Bulgur, Rolled Wheat, etc. Instructions have recently been issued to transfer 2 men from this office reducing it to 3 men. The Supervisor has now notified USDA he will retire August 22 which could make it a 2 man office. Any reduction of this 5 man office will weaken reliability of supervision. I hereby request you institute an investigation into this matter advising.
>
> Respectfully submitted,
> Mr. W. L. Newsom, President
> Fort Worth Grain Exchange"

It is rumored that USDA is beefing-up their staff at the various port locations -- pulling employees from the interior districts and apparently Fort Worth getting hit the hardest. Mr. Griffin had planned on retiring later on however the reduction of force at Fort Worth prompted him to go ahead and retire right away. I would appreciate receiving a copy of any letters or Western Union's you send regarding this important subject.

Yours very truly,

Carol

C. G. Mathews

bak

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RESIDENT COMMISSIONER
JORGE L. CÓRDOVA,
PUERTO RICO

Ninety-first Congress
House of Representatives, U.S.
Committee on Agriculture
Room 1301, Longworth House Office Building
Washington, D.C. 20515

MRS. CHRISTINE S. GALLAGHER
CHIEF CLERK

LACEY C. SHARP
GENERAL COUNSEL

HYDE H. MURRAY
ASSOCIATE COUNSEL

L. T. EASLEY
STAFF CONSULTANT

July 8, 1970

Appendix A
H. R. 8764
(Page 2)

Mr. W. L. Newsom, President
Fort Worth Grain Exchange
2707 Decatur Avenue
Fort Worth, Texas

Dear Mr. Newsom:

Last week upon receipt of your telegram, Mr. Poage asked me to investigate the charges in your telegram relative to reducing the grain inspection supervisors.

At that time we contacted the Assistant Secretary of Agriculture for Marketing and Consumer Services, who assured us that they would look into the matter. Later we received a memorandum from Mr. G. R. Grange, Acting Administrator of the Marketing and Consumer Service, advising that they were contemplating reducing the federal grain inspection supervisors from 5 to 4 and possibly 3. A copy of their memorandum is enclosed.

In talking with Mr. Grange further, he confirmed that the Chief Supervisor is retiring and that another supervisor had agreed to a transfer. He assured us, however, that he would "watch" the situation in Fort Worth and should they need another supervisor, the Fort Worth area would be so supplied.

Mr. Grange went into detail and explained that the New Orleans office and the Houston office were short of supervisors due to the large amount of grains exported. As stated above, he has assured us that should another supervisor be needed that he would be employed.

With best and kindest regards in Mr. Poage's behalf, I am

Sincerely yours,

Lacey Sharp

Lacey C. Sharp
General Counsel

Enclosure

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UNITED STATES DEPARTMENT OF AGRICULTURE
CONSUMER AND MARKETING SERVICE
FEDERAL CENTER BUILDING
HYATTSVILLE, MARYLAND 20782

Appendix B
H. R. 8764
(Page 1)

December 15, 1971

Mr. C. G. Mathews
Fort Worth Grain Exchange
P. O. Box 4422
Fort Worth, Texas 76106

Dear Mr. Mathews:

Thank you for your letter concerning the inspection of military purchases.

The intention of our "cooperative agreement" was to include sampling for the military. Military inspections are more detailed and involved than ASCS inspections and require more training and study. As soon as the Fort Worth Field Office can provide this training, the Grain Exchange can go ahead with the sampling for all military purchases.

The Commodity Inspection Branch has not received any information on military contracts for Anderson-Clayton. The only advance notice we get is when we receive a copy of the contract. We immediately mail a copy of the contract to the Field Office involved. Usually we receive these contracts from 2 to 3 weeks before production, but sometimes only a few days before production. The contractor usually has this information before we receive it.

From all reports, the Fort Worth Grain Exchange is doing a good job for us and this good work is appreciated. If there is any more information you may need, do not hesitate to contact the Fort Worth Field Office or the Commodity Inspection Branch.

Sincerely,

E. L. Brown

E. L. Brown, Head
Commodity Inspection Section
Commodity Inspection Branch
Grain Division

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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

WASHINGTON, D.C. 20250

JUN 25 1975

Mr. C. G. Mathews
Fort Worth Grain Exchange
P. O. Box 4422
Fort Worth, Texas 76106

Appendix B
H. R. 8764
(Page 2)

Dear Mr. Mathews:

This is to confirm the discussion in your office on April 30 with Mr. George Lipscomb of our Grain Division and in reply to your letter of May 9.

The Agricultural Marketing Act of 1946, as amended, under which your organization's services were utilized, authorizes the Department to enter into cooperative agreements with others for the purpose of carrying out the provisions of the Act. Our Office of the General Counsel has advised that a valid cooperative agreement must be founded on the essential elements of mutuality of interest in the cooperative endeavor and contribution on the part of each party to the agreement.

We have reexamined our relationship with grain inspection organizations such as yours, and found that mutuality of interest and contribution on the part of each party within the meaning of these terms are absent.

Accordingly, we have no alternative but to discontinue the agreement between your organization and the Agricultural Marketing Service for the performance of inspection services on processed grain products assigned to the Grain Division, effective August 1, 1975.

You have asked about the possibility of a contractual arrangement. Contracts may be negotiated with organizations to provide certain inspection services. However, because of the many problems associated with negotiating a contract with an organization, we have concluded that this procedure is not administratively or economically desirable.

We appreciate the services you have provided the Grain Division and assure you that cancellation of the agreement is not a reflection on your organization.

Sincerely,

D R Galliart

D. R. Galliart, Director
Grain Division

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3. Our system of marketing can adjust rapidly to changing supply and demand factors. Those who haven't tried the Canadian marketing system may like what they see, but for the past year or two Canadian farmers have been envious of the higher prices received by our farmers under a free market.

   There are many people who don't like fluctuating prices and they talk price stability. However, fluctuating prices are a great rationer of commodities and can better allocate supplies than can some government bureau. In the 100 years or so that we have had organized markets the records of these markets show that during this time we have never exhausted the supply of a single class of the major grains such as corn and wheat. In isolated locations there may have been shortages. However, nationwide there has always been a carry-over -- admittedly small in some years. This year's carry-over I'm sure will be larger than many were predicting six months ago. In other words, fluctuating price has done its job of making last year's supplies last until more could be produced.

4. Our marketing system allows for competition. This competition makes for efficiency and helps provide the incentive to boost production. To understand what can happen to agriculture where there is no competition and little incentive, I would call your attention to a story in the Wall Street Journal of Wednesday, July 16, 1975. This story tells the sad state of agriculture in Argentina. According to the article Mr. Sarmiento, the country's President from 1868-1874, said, "This is a land waiting for the order to produce." Today Argentine farmers are still waiting for that order. That order, of course, is a profit incentive.

While we are proud of our marketing system and believe it to be the best in the world, we recognize that there have been some reported dishonest practices in the handling of grain in some of the ports. We want to go on record that members of the Minneapolis Grain Exchange do not in any way condone unethical, dishonest or criminal practices that weaken the credibility of our marketing system and destroy public confidence. Grain Exchange members have suffered financial losses due to some of the practices followed at the ports in question. Individuals found guilty of dishonest practices must be punished. Their actions cannot be defended. However, the answer to correcting such wrongdoings is not in nationalization of our marketing system. Government employees -- State and/or Federal -- have no monopoly on honesty and integrity.

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TESTIMONY OF ALVIN W. DONAHOO,

EXECUTIVE VICE PRESIDENT OF MINNEAPOLIS GRAIN EXCHANGE

MINNEAPOLIS, MINNESOTA

September 23, 1975

My name is Alvin W. Donahoo. I am the Executive Vice President of the Minneapolis Grain Exchange and I have been associated with the Minneapolis market for the past twenty years.

There are many proposals in the Federal legislative hoppers that, if enacted, would greatly alter our present method of marketing grain which is the world's most advanced, most sophisticated and most efficient marketing system. We are extremely proud of our marketing system which makes it possible to move and market world-wide the vast quantities of grain produced by the American farmer.

Some of the advantages of our methods of marketing not found in other marketing systems are:

1. U. S. grains are graded against fixed standards that do not change from crop year to crop year. U. S. No. 2 Northern Spring Wheat or U. S. No. 2 Yellow Corn is the same this year as it was last year. Sellers always know what must be delivered and buyers always know what they are buying, even though they may buy well in advance of delivery. With a wide range of grades, buyers can choose the least expensive grain to meet their needs. In Canada, for example, the crop is sold on "fair average quality" and this standard changes from crop year to crop year.

2. Regardless of what is said by the press, farmers don't produce only U. S. No. 1 wheat, corn, etc. They produce a lot of grain that will grade 3, 4 and 5. What is produced depends on weather, insects, disease and other growing conditions. All qualities of grain can be marketed, as grains of different qualities can be blended to meet buyers' specifications. Blending makes it possible to provide a market for all qualities of grain. If blending were not possible, the losers would be both the producer and the consumer. Farmers would have to take wider discounts on the lower grades than they do now under the present system, as in many years the lower grades represent the major part of the crop. Consumers, on the other hand, would pay higher prices when the higher grades were in short supply.

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3. Our system of marketing can adjust rapidly to changing supply and demand factors. Those who haven't tried the Canadian marketing system may like what they see, but for the past year or two Canadian farmers have been envious of the higher prices received by our farmers under a free market.

   There are many people who don't like fluctuating prices and they talk price stability. However, fluctuating prices are a great rationer of commodities and can better allocate supplies than can some government bureau. In the 100 years or so that we have had organized markets the records of these markets show that during this time we have never exhausted the supply of a single class of the major grains such as corn and wheat. In isolated locations there may have been shortages. However, nationwide there has always been a carry-over -- admittedly small in some years. This year's carry-over I'm sure will be larger than many were predicting six months ago. In other words, fluctuating price has done its job of making last year's supplies last until more could be produced.

4. Our marketing system allows for competition. This competition makes for efficiency and helps provide the incentive to boost production. To understand what can happen to agriculture where there is no competition and little incentive, I would call your attention to a story in the Wall Street Journal of Wednesday, July 16, 1975. This story tells the sad state of agriculture in Argentina. According to the article Mr. Sarmiento, the country's President from 1868-1874, said, "This is a land waiting for the order to produce." Today Argentine farmers are still waiting for that order. That order, of course, is a profit incentive.

While we are proud of our marketing system and believe it to be the best in the world, we recognize that there have been some reported dishonest practices in the handling of grain in some of the ports. We want to go on record that members of the Minneapolis Grain Exchange do not in any way condone unethical, dishonest or criminal practices that weaken the credibility of our marketing system and destroy public confidence. Grain Exchange members have suffered financial losses due to some of the practices followed at the ports in question. Individuals found guilty of dishonest practices must be punished. Their actions cannot be defended. However, the answer to correcting such wrongdoings is not in nationalization of our marketing system. Government employees -- State and/or Federal -- have no monopoly on honesty and integrity.

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The Minneapolis Grain Exchange is the world's largest cash grain market. The grains marketed in greatest volume are Hard Red Spring Wheat, Durum Wheat, Malting Barley, Corn, Oats, Rye, Flaxseed and Soybeans. On the average, more than a million bushels of cash grain are traded over our cash grain tables each day.

The Minneapolis Grain Exchange has 420 members, which includes producers, country elevator managers, commission houses, processors, terminal elevator managers, millers and exporters. The Exchange was organized in 1881.

To give the Committee a better idea of the volume of cash grain moving through the Minneapolis market, the following statistics show the volume of grain moving in and out of the market by modes of transportation:

MINNEAPOLIS

Year	IN Number	IN Bushels(000)	OUT Number	OUT Bushels(000)
		Rail		
1974	74,906	190,579	33,843	102,391
1973	59,334	147,987	45,578	124,953
		Truck		
1974	215,862	186,576	3,552	3,597
1973	280,200	242,583	3,729	3,276
		Barge		
1974	-------	-------	4,242	215,546
1973	-------	-------	3,790	194,479
		DULUTH-SUPERIOR		
		Rail		
1974	62,277	156,430	16,835	45,147
1973	100,036	248,392	20,797	52,506
		Truck		
1974	67,446	65,188	252	175
1973	151,792	143,800	60	35
		Vessel		
1974	-------	-------		178,810
1973	-------	-------		345,198

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All of these units must be sampled, graded and weighed. These statistics should tell the Committee two things:

1. Our marketing system must be efficient if it is capable of moving such great volumes of grain;

2. Members of the Minneapolis Grain Exchange have a great need for accurate, honest grades and weights.

An accurate grade can be obtained only if a representative sample is presented for grading. Grading of grain is very subjective at best. Many times two qualified inspectors will see grading factors differently. Such differences in honest judgment give rise to a need for a system of appeals, a service now provided by Federal employees.

The original grading of grain in the Minneapolis and Duluth markets is done by State employees. In the states of North Dakota and South Dakota the original grading of grain is done by private inspection firms licensed and supervised by the USDA. Both State and private inspection agencies have served our market adequately.

From the data presented earlier, members of the Committee can observe that the grain movement is not uniform from year to year; therefore, a system of sampling and grading must allow for flexibility in the numbers of people employed. If a system of inspection does not take into account the fluctuations in the movement of grain, the overhead costs will be greatly increased. We feel that the present system of grain inspection, which is flexible and allows for Federal appeal, has served the industry well and at reasonable costs.

The Minneapolis Grain Exchange has as one of its functions that of regulating its members in their business dealings with fellow members of the grain trade and the public. Acceptance by the public of the Exchange depends on its performance of this and other responsibilities. At the present time, there is widespread lack of trust in both public and private organizations. We recognize that it behooves the Exchange to conduct its affairs in a manner which merits public respect and acceptance. Unless it does so, it can expect that the government will impose added restrictions and regulations on its activities.

The reported abuses in grain sampling and inspection, which appear to be located primarily at certain export ports, are serious and, if proven, cannot be tolerated. They are causing many to question the integrity of our entire grain marketing system despite abundant evidence of the efficiency of that system. Therefore, we in the grain trade have a deep interest in seeing that any abuses in grain inspection are corrected. We do feel, however, that the present system of grain sampling and inspection should be carefully studied and analyzed before any changes are made. We will be happy to cooperate in such investigations. If

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any part of the present system involves proven conflicts of interest, we favor modifications to eliminate them. We recognize that unless both the buyer and seller have confidence in grain grades, the value of those grades is diminished considerably. Objectivity and integrity in grading are indispensable to efficient grain marketing.

One apparent need for modification is increased Federal supervision of all grain inspection agencies. Such increased supervision might also include a thorough investigation into the background of anyone wishing to operate an inspection agency, a pretraining program before a person could be employed as a sampler or inspector, and increased on-the-job supervision of both the sampler and inspector, to insure that those responsible for grain inspection favor neither the buyer nor seller.

Some of our members favor continued sampling and grading by qualified State or private agencies, with increased Federal supervision. This arrangement would still allow for a Federal appeal grade if needed or desired.

Others in our membership have suggested that all grain for export be graded by a Federal inspector at the port.

We recommend severe penalties for those individuals who willfully disregard the proper procedures for sampling and inspection. Such penalties should include loss of license to sample and grade grain. We also recommend that very strong measures be taken against anyone found guilty of bribery, attempting to bribe or accepting bribes in connection with grain sampling and inspection.

Weighing of grain is equally as important as grading. It must be done accurately as once the car or truck is weighed or unloaded there is no recourse. The objective of any weighing department should be accurate weights so that the seller is paid for all the grain that reaches the market and that the buyer is assured he received all the grain for which he paid. Grain weighing may be supervised by State or local government agencies or private organizations.

For the past eight years, in the Minneapolis market grain weighing has been under the supervision of the Minneapolis Grain Exchange. We are proud of the skill and integrity of weighers and weigher supervisors in our market. All house weighers are licensed and bonded and Grain Exchange employees supervise approximately one-third of all the weighing of each shift at each elevator.

Prior to the Minneapolis Grain Exchange becoming the agency for the supervision of weights, this was an operation performed by the State of Minnesota. The change-over was accomplished with no loss of integrity of weights in our market. The number of complaints about weights is minimal. We know we have reduced the cost of weighing. We know we have a flexibility to perform a service to the industry that cannot be duplicated by any

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government agency, either State or Federal.

We recommend that all scales -- at least in terminal markets -- be tested for accuracy at least twice a year by an independent agency. We recommend that all weighing agencies should follow standardized procedures such as the procedures outlined in the Handbook of Uniform Instruction issued by the Terminal Grain Weighmasters Association. If this were done there would be no question of integrity of weights. We also believe that any agency that has been designated as a supervisory agency should have its personnel in the elevators actually supervising the weighing operation.

In Minneapolis, weigher supervisors are rotated on a random basis whenever possible. We endorse the initiation of this practice in all terminal markets. We also suggest the rotation of "in house" grain samplers and inspectors in all terminal markets.

We further recommend that there be severe penalties for any weigher or weigher supervisor for falsifying weights. There should also be severe penalties for anyone bribing, attempting to bribe, or accepting bribes in connection with grain weighing.

We do feel, however, that the present system of grain weighing should be carefully studied and analyzed before any changes are made that will prove costly and yet may not add to the integrity of the weighing procedure.

In summary, we recommend for the improving of grain weighing the following:

1. Testing of all scales twice a year by an independent agency

2. Following a standardized procedure of weighing by all weighing agencies

3. Having the personnel of the supervisory agency in the elevators supervising the weighing operation

4. Rotating weigher supervisors in the elevators on a random basis wherever possible

5. Requiring severe penalties for falsifying weights or for attempted bribery.

We feel these suggestions will make it possible for our marketing system to continue serving efficiently the producer, consumer and the trade, while at the same time acting as a strong deterrent to illegal practices.

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Mr. POAGE. Thank you very much for your statement. We will be glad to have you stay with us for questions.

Our last witness this morning is Mr. Randolph P. Moore.

[The prepared statement of Mr. Moore follows:]

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STATEMENT OF RANDOLPH P. MOORE, REPRESENTING THE CORPUS CHRISTI GRAIN EXCHANGE, 415 LANTANA STREET, CORPUS CHRISTI, TEXAS, OF WHICH HE IS PRESIDENT, SEPTEMBER 23rd, 1975

I want to thank you very much Mr. Chairman, and members of this Committee for the opportunity to testify before you today on various bills before you concerning amending the UNITED STATES GRAIN STANDARDS ACT. Before I comment on these Bills I think it appropriate to give some background information on myself and the Corpus Christi Grain Exchange.

My name is Randolph P. Moore, I live at 1402 Bowie Avenue, Harlingen, Texas, and have been employed as manager of Valley Grain & Elevator Co., Inc., of Harlingen, Texas, for about nineteen years. I have been in the grain handling business in the Rio Grande Valley continously since 1950. Valley Grain & Elevator Co., Inc., is a country elevator owned by farmers, engaged in buying grain from the farmers and selling to exporters, feeders and grain merchants, and storing grain for farmers and others. We have a storage capacity of 1,500,000 bushels, and handle about two million bushels of grain a year. Our grain is almost 100% grain sorghum. About 80% of our volume is sold to exporters and is shipped thru the ports of Brownsville and Corpus Christi, Texas, mainly thru Port of Brownsville.

I am an elected director of the Corpus Christi Grain Exchange, one of nine directors who are elected for three year terms. I was elected by the Board of Directors in April, 1975 to serve as President of the Exchange. Presidents are elected for one year terms and seldom serve more than one year. The compensation of the directors, and president, is a $20. per meeting director's fee, which generally amounts to $160. to $200. a year. We are also paid 10 cents a mile car allowance from our office to the Exchange's office in Corpus Christi. I live the farthest from Corpus Christi and make a 280 mile round trip to each meeting. I am owner of seven shares of stock in the Exchange - which is 7/10 of 1% of the total stock - and no member of my family nor my employer, or any stockholder of my employer, owns any stock in the Exchange or has or has had at any time any beneficial interest in any stock in the Exchange. My expenses to attend this meeting are being paid by the Exchange.

The Corpus Christi Grain Exchange is a state chartered corporation with about 100 stockholders. The two largest stockholders own respectively 7% and 9% of the stock of the Exchange. One is a bank which bought stock at the time of the organization of the Exchange and the other is a farmer who I am sure bought his stock at the same time. None of the major grain firms own over 2% of the stock. None of the major exporters are represented on the Board of Directors, because none of them have offices in or near Corpus Christi. Most of the stockholders are either country grain elevators, farmers, the heirs of original stockholders who were farmers or country elevator operators, local area banks, and other people who have some connection with the grain trade in South Texas. The original stockholders have made an effort to have wide spread participation in the Exchange among the country elevators and have offerred their stock for sale to new-comers in the business. Of the nine man Board of Directors two are managers of local grain cooperatives; three are managers of independent privately owned country grain elevators whose principal owners are farmers; one is a rancher and owner of a feed mill and country grain elevator; one is a grain

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broker; and two are officers of firms engaged in handling cargo ships. The manager of grain export co-operative with export facilities in Corpus Christi was vice president of the Board at the time of his accidental death a little less than a year ago. The stockholders have always attempted to have a wide representation of the industry on the Board as they felt this would best assure the Board being aware of the problems to be faced in the area. To my knowledge, no director of the Exchange receives any compensation from the Exchange other than directors fees, mileage, and travel expenses. The firms that two of the directors are employed by each own 2% of the stock of the Exchange and the others either own or are employed by firms that own not over 1% of the stock. I point this out to you to show that the directors interest in the Exchange is simply to see that it fulfills its function of giving service to the people it serves in South Texas.

The Corpus Christi Grain Exchange is licensed by the U. S. Department of Agriculture to provide official inspection service to the ports of Corpus Christi and Brownsville, Texas, and in addition provides official inspections on overland shipments to Mexico and on domestic rail shipment where requested. It serves an area in South Texas going east along the coast about half way to Houston and bounded on the north by San Antonio and on the Mexican border by Del Rio. As most of the grain in this area is shipped to a port for export there is not sufficient need of an inspection service to justify creation of services at any additional locations; so the Corpus Christi Grain Exchange furnishes such service where requested. At one time there was an inspection service located in San Antonio but it has long since gone out of business - for lack of business.

The Exchange was organized about thirty years ago when the grain shippers and farmers in the Corpus Christi area felt the need of an inspection service that would give them official grades on grain sorghum being shipped to Fort Worth, Houston, and Galveston. This was before the building of the public export elevator at Corpus Christi, and all grain was shipped by rail or truck. With the building of the public elevator by the Nueces County Navigation District at Corpus Christi the Exchange was made the official inspection agency for the export shipments thru the port, and as the grain business has grown so has the Exchange, always keeping in mind that its purpose was to serve the grain growers and handlers in South Texas. When the public elevator was built in Brownsville a few years ago the Corpus Christi Grain Exchange agreed to furnish official inspections for that port, and has continued to serve it. For a time inspectors were rotated from Corpus Christi but at the present there is a full time inspector located in Brownsville. The volume of grain handled through Port Brownsville the first few years would not have justified a full time inspection service and I don't know what we shippers in that area would have done if it had not been for the Corpus Christi Grain Exchange handling the inspection service. One thing that I am sure of is that the inspection service - to be self supporting - would have been more costly than the service we received from the Corpus Christi Grain Exchange. This year the Exchange has provided inspection on corn going into Mexico by rail at a point about 40 miles west of San Antonio and is presently in an arrangement to provide inspection service on grain sorghum going into Mexico through the border town of Eagle Pass which is located about 140 miles west of San Antonio. I am bringing out these operations in an effort to show you that the Corpus Christ Grain Exchange makes an effort to provide inspection service to the grain handlers in the area that it serves.

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The management of the Exchange is under the direction of a Chief Inspector who is a licensed grain inspector. The present Chief Inspector has been employed by the Exchange for eighteen years and has been Chief Inspector for twelve years. None of the directors have any direct contact with any employees of the Exchange other than the Chief Inspector. The Exchange currently employes eight licensed inspectors - who work on a year around basis - in addition to the Chief; a licensed weighmaster; one or two clerks; and from ten to thirty samplers, depending on the volume of business.

COMMENTS ON BILLS

I will confine my comments on the bills before you to one or two aspects of them.
First, I am opposed to provisions of these bills that eliminate all inspections agencies that belong to or are sponsored by Grain Exchanges, Boards of Trade, or corporations, that have members or stockholders who are engaged in the grain trade. I feel that in the whole these agencies have provided good service to the grain trade, satisfying both buyer and seller; and all for a reasonable fee. It is my opinion that no private organization that did not involve people related to the grain trade would be interested in operating a grain inspection service under our present schedule of charges, as the income is neither consistent enough nor large enough to make it an attractive business venture over a long period of time. I say "over a long period of time" because in years of good crops, large exports and other favorable conditions the inspection service can be profitable. In my opinion the elimination of many of the present inspection agencies, all of which I assume are licensed by the Department of Agriculture, would result in either higher fees by private agencies, or a complete take-over by State of Federal inspection services. In any event I am afraid we would have higher fees and less flexibility in the service we as elevator operators receive.

I feel that the present system, as I am familiar with it; operated by private agencies, with inspectors licensed by the U. S. Department of Agriculture; with supervision by the Department of Agriculture; with the right of appeal to the U. S. Department of Agriculture on any dissatisfaction with grades, by either buyer or seller, is a system of checks and balances which would be lost.

I realize that the bills before you have been occassioned by the indictment of some grain inspectors, and the insinuation that their employers were also involved in falsifying grain grades and grain weights. All I know of this is hearsay, either from newspapers, TV reports, or conversation with people who had read or heard of the acts.

The Corpus Christi Grain Exchange has not had any inspectors indicted nor asked to appear before a grand jury for questioning. There was one event in which a person under indictment alleged that he had made "pay-offs" to two of our grain inspectors in return for having some vessels declared "clean" to load grain, but nothing other than an investigation has resulted to this time. After our inspectors reported to the Chief Inspector that they had been questioned regarding the alleged "pay-off" the Chief Inspector questioned them and they denied any part in any "pay-off" or other irregularities.

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The Chief Inspector then reviewed the records on loading the two ships and made a full report to the Board. It was the opinion of the Board in view of no further action by any of the Government agents doing the investigating, the reports on the ships, that the charges were without foundation in fact.

We have consistently offerred the Grain Division personnel any help we could in any investigation. To my knowledge there have been no charges of misgrading grain laid against any of our inspectors.

I am in full accord with punishing the guilty and cleaning up any areas that warrant cleaning up. I feel that this can be done under the scope of the present Act, provided that the Grain Inspection Service had sufficient funds to hire the necessary personnel. I know that testimony in this area is being presented by persons more qualified than I am; so I will not elaborate on it.

In closing I want to say that I feel that the Corpus Christi Grain Exchange would be put out of business under the proposed bills, if you see fit to enact them in their present form. I seriously doubt that any private investors would buy the stock, or the facilities of the Exchange, and continue to operate it as it has been operated for thirty years. This would result in the inspection service being furnished by either a State or Federal agency. We would then see one less private tax paying business in the United States and the loss of twenty full time jobs in the private employment sector; and the addition of not less than that many people to the government payroll, either state or national.

Gentlemen, I thank you for the opportunity to appear before you and I hope that my remarks may be helpful in your task of writing a new GRAIN STANDARDS ACT; or in deciding that the present Act, with modifications, will continue to serve the grain industry in this country. Thank you.

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Mr. POAGE. I am going to ask those who came early to have the first opportunity to question the witnesses.

Mr. de la Garza was the first member of the committee to arrive. Mr. de la Garza, do you have any questions?

Mr. DE LA GARZA. Mr. Chairman, I have no questions.

Mr. POAGE. Mr. Jones of North Carolina has gone. Mr. Thone was the next to appear.

Mr. THONE. I would like to make a few comments and then ask a few questions.

Mr. Hightower walked by here a moment or so ago and said "Well, we pretty much agree with what most of you are saying, but I wish that more people could hear your side of the story."

I think that it is pretty obvious in reading the newspapers that the current grading inspection system is under fire. And that that is understandable. We have had 63 indictments, and we have the various investigative agencies of the Federal Government involved with exports. We have the IRS, the GAO, and the USDA.

It is my understanding that all of the grain inspection ports will be gone over carefully, and, as was brought to our attention a couple of times within the last week, the investigations are expanding to the inland locations.

I heard a gentleman from Continental yesterday who suggested strongly that he felt that additional work was most necessary.

The USDA suggests that there is an inherent conflict of interest problem. I want to come back to that in a minute. I will have a few questions for some of you on it.

The Department also says that they have an inability to adequately supervise and control the activities under the act. I don't think that we will have objections from any of you suggesting that the Department should have more teeth to enforce the law. There certainly should be stiffer penalties. Perhaps we should have the original inspection authority that they feel they need.

Lastly, I do want to emphasize again the thought that there is real need for additional Federal supervisory personnel to get the job done. I think, Mr. Donahoo, you brought that up again this morning.

There is no question that many of us on this committee—and I am sure many in Congress—feel that the boards of trade and the grain exchanges have done a creditable job in this industry. There is no question about that at all.

But central to this issue here on how we are going to get needed reform is the conflict-of-interest problem as I see it. You were all in the room this morning. You heard a U.S. Senator come in here and say that it should be obvious by this time that the private inspection system simply cannot be salvaged in any way. And he went on and on and on. You all heard that. He has some support, not only in that body but in the House and on this committee.

So, I would like to ask each one of you to help us who do believe that that would be a terrible step backward, that is, nationalization of this grain inspection system.

Over the weekend I took the Grade Standards Act home. I hadn't seen it before—to be very candid with you. I read section 11 over a dozen times. I think that I understand it now. That is the current

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conflict-of-interest section. I then went back to Mr. Feltner's statement in which he says that there is no way that you can eliminate inherent conflicts of interest between the industry and non-State official inspection agencies.

With that long-winded introduction, I would like to go down the line, if I may—I don't care who starts it—and ask each of you for your opinions.

I appreciated your statement, Mr. Donahoo. You hit it on the head. You said that if there is any part of the present system which involves the conflict of interest, then we favor modification to eliminate that. You said that you recognize that unless both the buyer and seller have confidence in the grades, then the value of those grades is diminished considerably. You said that objectivity and integrity in grading are indispensable to efficient grain marketing.

I think that is the big issue here.

What do you say? I would like to start with anyone of you. How do we come to grips with this problem that is before us?

Mr. SULLIVAN. Mr. Thone, I am not presently an employee——

Mr. THONE. By the way, Mr. Sullivan, you did not have a prepared statement, but I think you had one of the best statements that I have listened to here. It was excellent.

Mr. SULLIVAN. Thank you.

As I indicated, it is a troublesome problem. I think history has shown us that it is beyond the power of government to regulate morality. In my experience with people in the grain trade and those with whom I am familiar, they, I think, are outstanding people with character and integrity.

The conflict-of-interest issue is a troublesome one. Perhaps there could be some provision regarding the appointment of chief inspectors and perhaps it could strengthen the present conflict-of-interest section.

In my own experience in the Corn Exchange of Buffalo with the members of the trade, they never go into the inspection area. The inspections are done in a central location. Samples are taken on the spot. There has not been a problem. I can see that there could be a problem in some places.

I don't have the answer. I think the cure by federalizing the system would be wrong. Furthermore, I don't think that it would work.

If USDA is unable to perform the supervisory functions, which are assigned to it now, then how in God's name are they going to perform the inspection of the many thousands of places throughout the country? Where are they going to get the qualified people?

Mr. THONE. Mr. Sullivan, I am sorry to interrupt you. You have given me a pretty good answer. I know that it is a tough one to answer.

I would suggest this to the industry. You had better get your best minds—legal and otherwise—to address this issue.

If you would all send me your thoughts and suggestions on that, I would very much appreciate it. Or you could send them to the committee or to Mr. Poage.

My time is up, but I think that you have a real problem here; and it is to your best interest to meet it.

Mr. POAGE. Thank you.

Mr. Jones of North Carolina has returned. He may now ask questions if he desires.

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Mr. JONES of North Carolina. Thank you, Mr. Chairman. I will address this question to Mr. Wood.

Yesterday a witness made a tentative suggestion that within the industry, without Government interference, that you elect or select a commission to appoint the inspectors. Furthermore, he suggested that they be rotated like referees in a football game. I wonder if that registers any interest on your part.

Mr. WOOD. I think possibly you are referring to Paul Hughes' statement made here yesterday. I was not here but he did send me a copy of that statement.

I rather doubt that. I think that you would have to have Government employees if you rotated them from one area to another. I am not sure that Government employees is the complete answer. In fact, I rather doubt that it is.

I think that what we have to have in the industry is that we have to have additional Federal supervision of grades.

I think that we must have a standardization in each market. This market grades corn No. 2, and that sample should grade No. 2. I think that we should have Federal supervision much better than we have had in the past.

The way that it actually works in the trade is this. If I sell you a car of corn, then I inspect that car when it leaves my elevator and when it gets to your elevator or your mill, then you have an additional inspection.

If there is a difference in my grade at the shipping point and your grade at the receiving point, then either party has an opportunity to ask for a Federal appeal inspection.

I think that what we need is additional Federal supervisors so that if there is a grade difference, then we can resolve that difference. That keeps this inspector at the shipping point and this inspector at the receiving point in line. They are sampling the same and the procedures are the same. I think that is the real answer. That is the cause of our problems, that is, the lack of Federal supervision.

Mr. JONES of North Carolina. That would involve additional Federal intervention, would it not?

Mr. WOOD Yes. It would involve some intervention by the Federal Government, but they would be paid by fees. They charge a fee for inspection of this particular sample of corn or soybeans or whatever grain it may be. It would be offset considerably, that is, the cost would by fees.

But you would have to appropriate some money for additional personnel; there is no question about that.

Mr. JONES of North Carolina. I have no more questions.

Mr. POAGE. Mr. Breckinridge, do you have any questions?

Mr. BRECKINRIDGE. Thank you, Mr. Chairman.

I want to reiterate what Mr. Thone has said. Central to this entire question is the allegation or the assumption that a basic and inherent conflict of interest exists that can only be remedied by removing the inspectors and the weighers from that conflict.

We might draw another analogy to which we are all accustomed, namely that of arbritration procedures whereby those parties on the opposing sides nominate their respective arbitrators. In the event of an inability to arrive at an agreement, they in turn designate a third

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and final arbitrator who disposes of the matter. I find some analogy as I listen to the testimony of you gentlemen. No one has suggested, to my knowledge, that that constitutes a conflict of interest.

To the extent that you gentlemen are able to elucidate further that problem and that question of the responsible inspectors and weighers, then the simpler your problem in resolving this matter will be.

I take it, Mr. Chairman, that the record will be held open for that purpose to enable these gentlemen to so advise us.

Thank you, Mr. Chairman.

Mr. POAGE. Thank you.

Mr. Bergland, do you have questions?

Mr. BERGLAND. Thank you very much.

Mr. Donahoo, could you describe for the record the difference between foreign material and dockage?

Mr. DONAHOO. It would depend on the various grains which are spelled out in the grade book.

Foreign material in wheat, I believe, is that material that cannot be separated from wheat in the proper determination of dockage. Rye in wheat would be classified as foreign material, whereas dockage is the material which you can take out by sieves and screens and so on, that is, by mechanical devices.

Mr. BERGLAND. Foreign material would be grains which are mixed into other grains which cannot be separated by mechanical means?

Mr. DONAHOO. Right.

Mr. BERGLAND. Dockage would be material that can be taken out?

Mr. DONAHOO. Yes.

Mr. BERGLAND. Mr. Donahoo, would you describe for me the inspecting and weighing process which is used when a lot of grain is shipped from a country elevator that is served by the Minneapolis Grain Exchange?

Let's assume for the moment that it is bound downriver to a port at New Orleans.

Mr. DONAHOO. First of all, in North Dakota the elevator manager will have the grain inspected. It will be graded. It may or may not be weighed, depending on whether he has a scale. I suppose in most cases he will have a scale, but sometimes you get estimated weights on grain from country elevator points.

It comes into Minneapolis. A sample will be taken. It will be graded. The grain exchange will weigh the car of grain before it is unloaded. It goes into the elevator.

Then it is ready to go onto a barge or a boxcar to be moved on to the next port. When it goes into the barge, it is again graded and weighed.

Probably it will be sold as destination and grades; and when it gets to the export elevator, it again will be graded and weighed.

Then, when it moves onto the ship, as I understand it, it will again be graded and weighed.

So, it is graded and weighed manv times from the time it leaves the point of origin until it gets to its final destination.

Mr. BERGLAND. When this grain is weighed and graded at Minneapolis, it is weighed bv the Minneapolis Grain Exchange, but it is graded by the State of Minnesota.

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Mr. DONAHOO. Yes.

Mr. BERGLAND. Your market, like most other markets, is competitive. Assuming for the moment that the Minneapolis Grain Exchange is also in the business of grading, do you see any inherent conflicts of interest in that you do represent both buyers and sellers? The exchange, which would provide the service, would have to satisfy both buyer and seller that the weight and grade was honest and accurate, is that correct?

Mr. DONAHOO. We serve a very broad base. The grain moving into the market is good grain of the seller. If we were inclined to favor the buyer, we would certainly be in trouble with the other side. Moving out, we would be in trouble if we tried to favor that side. We have to be fair and impartial. These people are all members of our market. We would have to be fair.

Mr. BERGLAND. I can see the checks and balances provided in the system.

I am, however, deeply troubled by what may happen to that grain once it is offloaded at an export point. You don't have that competitive system of checks and balances. The buyer will frequently be the seller. I think therein lies the basic problem, Mr. Chairman.

I thank you very much for your contribution.

Mr. POAGE. Thank you, Mr. Bergland.

Mr. Fithian, do you have any questions?

Mr. FITHIAN. Mr. Chairman, I have no questions.

Mr. POAGE. Mr. Hightower.

Mr. HIGHTOWER. Mr. Mathews, you are from Fort Worth?

Mr. MATHEWS. Yes, sir.

Mr. HIGHTOWER. In your testimony you testified that in the last 2 years the grain exchange at Denison and Dallas have both ceased to operate, is that correct?

Mr. MATHEWS. The exchange, which served Dallas and Denton and Sherman, went out of business.

Mr. HIGHTOWER. These were separate exchanges which were rendering the service to markets in those areas?

Mr. MATHEWS. Those were basically one single inspection agency.

Mr. HIGHTOWER. They ceased to exist?

Mr. MATHEWS. Yes.

Mr. HIGHTOWER. Why?

Mr. MATHEWS. It was the decline of the volume of business in those particular towns.

Mr. HIGHTOWER. These were exchanges that had only one inspector employed?

Mr. MATHEWS. Yes.

Mr. HIGHTOWER. That is all I have, Mr. Chairman.

Mr. POAGE. Mr. Wampler.

Mr. WAMPLER. I have no questions.

Mr. POAGE. Mr. Jones of Tennessee.

Mr. JONES of Tennessee. I have no questions.

Mr. POAGE. I understand that Mr. Bor has some questions.

We will take this opportunity to advise the committee that the chairman is doing well in the hospital. He hopes to be back with us soon.

Mr Bor, we will be glad to have you pose questions.

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Mr. BOR. I would like to follow up on a question that Mr. Bergland had asked in regard to the matter of the treatment of foreign material.

Some of the bills that have been proposed would make all foreign material in the nature of dockage and therefore a weight factor rather than a quality factor.

I wonder if you gentlemen might comment on that.

There is one other matter that you might want to consider in this context. There is a difference in treatment of foreign material as between wheat on the one hand and corn on the other.

In the case of wheat the broken kernels—if there is such a thing—and damaged kernels are treated separately from foreign material. In the case of corn, broken and foreign material are lumped together and tolerances are set for the combination of the two.

The suggestion has been made to treat corn much like wheat so that there would be a separate factor for the broken kernels, and then the foreign material would be treated as something in the nature of dockage and therefore a weight factor.

Would any of you gentlemen wish to comment on that?

Mr. MCNAMEE. In corn you have broken corn and foreign material as the grading factor. Your broken corn actually takes in all small pieces of corn, including corn flour.

Everytime that you handle dry corn, more pieces of corn slough off and, if you were to make that into dockage, then you would be taking a lot of the food value and feed value of corn and throwing it out as dockage. Actually there is good feed value in it, that is, in the small pieces of corn.

In foreign material that is grain that is other than corn; such as pieces of cobs or stray kernels of soybeans or some other grain that is larger than the 1264 sieve that we use for taking out the broken pieces of corn.

Mr. BOR. The issue has been raised largely because of many complaints that have been registered abroad on quality of U.S. grain that has been received. The suggestion has been that matter which is other than grain for which payment has been made would be considered a weight factor and not a quality factor. So, this would tend to reduce the encouragement to include that as part of the cargo that is shipped.

Mr. MCNAMEE. A lot of it comes directly from the farm. There are pieces of stocks, pieces of leaves right from the field. That would go as foreign material.

The actual broken kernels, which might be called dockage, is usable. If that were taken away from the weight, then it could be done; but it should be done according to uses of the trade because as you go overseas and watch them handle the grain and the way that they unload it to make more broken kernels, then you are going to affect more of this into the broken corn and foreign material or the dockage status.

Also—I cannot prove this myself—I am told that in Russia they use a larger sieve than the 1264, so they take out more broken pieces which we don't due to the difference in grading.

UNIDENTIFIED PARTICIPANT. We have not seen too much documented evidence in regard to the samples taken at ports of destination. We have heard a lot about it, but we have not actually heard enough evi-

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dence as to how these samples were taken, that is, whether on board ship, after they were removed, or by mechanical means.

In loading ship lots, of necessity there are going to be layers of grain or foreign material at the tail end of the grain that comes out of the scale. It will have a little more of the foreign material than at the beginning.

If this layer is into a ship and if some of the top is taken off at one port; and if more of it is taken off at another port, then if it is not sampled properly you can end up with all of the foreign material at the bottom. It would naturally work down through the grain.

So, we would like to see the documented evidence as to the complaints and how the samples were taken before we take sides as to who is right or wrong.

Mr. BOR. The reason for the question is that there have been a number of buyers abroad who have stated that because of the increase in the foreign material in the purchases from the United States then they have been buying soybeans from other countries.

Mr. SULLIVAN. There is a great deal of suspicion among many people with whom I am associated. They think that because of the drop in world grain prices overseas buyers wishing to renege on their contracts are finding excuses for not accepting the grain or complaining about it.

Mr. BOR. I have one other question. It deals with the matter of weights.

There has been a good deal of testimony today on the procedure which is followed in the weighing process. I wonder if you gentlemen might expand on one issue.

A suggestion has been made about the possibility of legislation that will provide for the Federal Government to set standards and procedures to be followed for weighing; and also for supervisory personnel to inspect the method by which the weighing is carried out by local officials.

I wonder if you gentlemen might wish to comment on that type of an approach.

Mr. MATHEWS. Basically, we already have rules and regulations through the Association of American Railroads and the National Bureau of Standards and the State agencies as far as the testing of the scales, the weighing procedures, and so on.

There may be some areas that have problems, but we are not aware of them.

Mr. BOR. The reason the issue has come up is because of the indictments which have been returned in recent months which point to problems in certain areas with regard to weighing procedures.

That is the reason for the proposal being raised.

Mr. MATHEWS. May I make an inquiry?

I am wondering if these cars, which are supposedly shortweighed at the destination port, were weighed by the shippers' own official weights or whether the cars were weighed near the origin point. Or, are we speculating on estimating origin weights versus destination weights?

Mr. BOR. I think the indictments have come about because in certain instances there has been evidence of false weighting at port elevators.

There is another problem which results from the situation where you have grain weighed somewhere in the interior at the point of ori-

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gin. It is loaded aboard a rail car that is perfectly sealed, and it arrives at the destination with a short weight.

This is sometimes a substantial short weight. Claims are filed against the railroad, and the railroad claims that it is impossible for the grain to have leaked out because it was perfectly sealed.

There are a number of issues like this of which I am aware that are involved in litigation right now. In any case there may not merely be a problem with the cars but with the weighing process at the origin point.

Mr. MATHEWS. We have found that these leakproof hopper cars do under certain conditions actually leak.

Mr. DONAHOO. You can have a car that looks like it is perfectly sealed, and yet in the stress of moving it, it will leak; when it is standing still, it won't. We have found this to be true.

We have tried to run down all of these complaints which come along. We find many reasons for these differences: poor scales at the point of origin, poorly maintained scales at the point of origin, leaking equipment, and so on.

Mr. WOOD. I would like to mention, if I may, that the National Association is presently in the process of appointing a committee—sort of a task force—made up of members of several committees of the National Association to study this particular problem, that is, of weighing.

At some time in the future we will be in a position to make certain recommendations in this regard.

I would like to remind the committee that as a seller of grain I weigh the grain when I sell it. The buyer of the grain weighs the grain when he buys it. If there is a big discrepancy in weight which cannot be corrected, then I certainly find a new customer to sell my grain to.

If he buys it on origin weights and if the origin weights are not correct, then, if there are continued discrepancies, he finds another supplier.

That is the way that the free enterprise system works. It corrects itself.

I don't think it needs the attention of Congress in particular in domestic transactions. I think that it will be self-correcting, and it always has been in my business; and I have been in this business for a long time.

I have not found this to be a major problem.

Mr. BOR. Thank you, Mr. Chairman.

Mr. POAGE. Thank you.

I think that completes the portion for today.

We want to thank you gentlemen for being here. We appreciate your assistance to the committee.

The committee will adjourn until 10 o'clock tomorrow morning.

[Whereupon, at 12:15 p.m. the committee adjourned to reconvene at 10 a.m., Wednesday, September 24.]

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U.S. GRAIN STANDARDS ACT AMENDMENTS OF 1975

WEDNESDAY, SEPTEMBER 24, 1975

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 1301, Longworth House Office Building, Hon. W. R. Poage (vice chairman of the committee) presiding.

Present: Representatives Poage, de la Garza, Jones of North Carolina, Bergland, Litton, Breckinridge, Weaver, Baldus, Krebs, Harkin, Hightower, Bedell, English, Fithian, Jenrette, Sebelius, Thone, Symms, Madigan, Grassley, and Hagedorn.

Also present: Robert M. Bor, counsel; John E. Hogan, associate counsel; Eugene Moos, staff analyst; Steve Allen, staff consultant; Glenda Temple, Mary Jarratt and Susan Bell, staff assistants.

Mr. POAGE. The committee will please be in order.

We are to continue the consideration of the U.S. Grain Standards Act Amendments of 1975 and related bills.

Our first witness this morning is Mr. Ray Davis.

Mr. THONE. I do not know if he needs an introduction, Mr. Chairman. He has been here several times before. Ray Davis is a real agricultural leader not only in my State, but also in the country, especially in his area of wheat.

Ray, we welcome you here this morning and will appreciate your testimony.

[The prepared statement of Mr. Davis follows:]

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Statement of
Ray Davis, Past President
National Association of Wheat Growers

Mr. Chairman and Members of the Committee:

The National Association of Wheat Growers appreciates this opportunity to present its views to the Committee on proposals to reform the nation's grain inspection system. My name is Ray Davis. I am a wheat producer from Potter, Nebraska, and the immediate past president of the NAWG.

Wheat growers have been shocked by the continuing disclosures of corruption and misconduct in the grain inspection system. Moreover, they feel deeply threatened by the negative impact these developments have had on the integrity of their product and the reputation of U.S. wheat in world markets. Producers, through their state, regional and national wheat organizations, have devoted hard work and millions of their own dollars to improving the quality of their product and expanding overseas markets for the increasing share of U.S. production which must move into world trade. Misgrading, short-weighing, bribery of licensed inspectors and other violations and forms of misconduct have thrown a blanket of suspicion over U.S. grain which jeopardizes future sales and reduces the producers' opportunities for fair market returns. Strong and effective action must be taken to reform our grain inspection system and rebuild the standing of U.S. grain in world trade.

In our view, the program submitted by the Administration falls short of providing the reforms needed to restore integrity in our grain inspection system. The approach of applying more supervision to the present system of Federally-licensed state and private inspection agencies fails to correct problems inherent in the system as it exists today. While we endorse the move to strengthen supervision, we believe that a strong record for structural changes in the system has been made through the investigation and prosecution of corrupt practices by the Federal government.

The NAWG favors Federal-state grain inspection, whereby original and export inspections would be performed by either Federal authorities or state agencies designated to impose Federal standards. State agencies should be required to meet Federal standards to perform official inspections, and their employees should likewise be required to comply with Federal codes to qualify as inspectors. The authority for private agencies to conduct inspections would be eliminated.

Conflict of interest is inherent in the existing system of grain inspection. In fact, provisions permitting private agencies to perform official inspections have actually encouraged it. We see inspection agencies operating within boards of trade, and we have learned through the investigations that some private agencies and inspectors have financial ties to the companies whose grain they are officially inspecting. The examples of conflict of interest are almost endless. Every practical step should be taken to prevent misconduct of this sort, and we believe that establishment of a Federal-state inspection program with strong penalties for violations of the Grain Standards Act should rank foremost in efforts to improve the system.

In this regard, both the Administration proposal and the Smith Bill provide stronger penalties for illegal actions prohibited under the Grain Standards Act. The Smith Bill, however, is more comprehensive in its approach and we feel it would be more effective as a deterrent to misconduct. It is also our view that new grain inspection legislation should provide authority and establish a policy for the rotation of grain inspectors. Many of the problems we have recently become aware of, stem from unethical relationships which have developed over the years between inspection authorities and grain merchandising interests. Regular rotation of inspection personnel is a necessary step towards preventing future development of these situations.

The NAWG believes that inspection fees under the Federal-state approach should be as uniform as possible. These charges should be directly related to the costs of grain inspection, and should not be used as an additional revenue source for state treasuries.

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Authority for overseas monitoring on a spot-check basis of U.S. export shipments is contained in the Administration's proposal and we feel that this is an important and valuable step in preserving the integrity of U.S. grain. This authority would provide additional oversight of U S inspections and also improve our ability to analyze and deal with foreign complaints. In no way should this or any other provision in the Act be implemented in a manner which will alter or jeopardize the current procedure for issuance of a "certificate final" grade at U.S. export points. The "certificate final is essential to the orderly conclusion of sales of U.S. wheat as it moves from the terminal to the ship for export.

Grain producers have very strong feelings about the adulteration of grain, and the NAWG is pleased that H.R. 8764 would prohibit the addition of any foreign material which would alter the character or test weight of grain. In this connection, however, we want to emphasize the importance of blending in meeting grades and market demand. Blending is an essential marketing tool which must be preserved.

One wheat marketing problem that blending has not been able to adequately solve pertains to the subclass "yellow hard winter" The Official Grain Standards place hard red winter with less than 40% dark hard and vi reous kernels in this subclass. However, milling and baking tests have shown conclusively that no significant difference exists between "yellow hard" and "hard winter" subclasses containing the same protein level While tests have uniformly vindicated the quality characteristics of the "yellow hard" subclass foreign buyers have shown strong resistance to offers of this grade at cut-rate prices. Producers have been discounted heavily this year on "yellow hard wheat, and we can see no reason for our system to unjustifiably discriminate against its own grain and cause severe penalties to producers in the form of price discounts running over 30¢ per bushel.

In past harvests, the overall volume of "yellow hard" was small enough that it could be blended-out This year however, more than 40% of the Kansas crop and 70% of the Oklahoma wheat crop graded "yellow hard". Significant occurrences of "yellow hard" also appeared in Texas, Nebraska, and Montana.

The NAWG has made a formal request to the Grain Division of USDA's Agricultural Marketing Service for elimination of the subclass "yellow hard", but the Department has o ficially replied that it would take "at least two years" for the change to be made This is intolerable. The problem exists now, and it will continue to exist until action is taken. We urge the Committee to act now on this matter, in order that this season's harvest and future crops can be graded without loss to producers.

The NAWG also feels that new inspection legislation should establish a definite policy for improved grain marketing research. It is very evident that sampling techniques and protein testing for wheat have not kept pace with changing needs and market requirements Possibly the most serious example of this failure is the U S Grain Marketing Research Center in Manhattan, Kansas. This facility continues to be under-staffed and under-funded. It is popularly known as the "ghost facility" since it is being improperly utilized for grain marketing research. Policy should be developed to obtain full use out of existing facilities and expand overall research in this field.

In conclusion, the NAWG feels that changes in the U.S. grain inspection system are necessary and long overdue. We note that Federal investigations of corrupt practices have already produced beneficial results by improving inspection performance but we also recognize that changes must be made in the structure of the present system if we are to avoid these problems in the future. The Federal-state concept which we have endorsed in our testimony will correct problems inherent in the present inspection system and strengthen foreign confidence in the integrity of U.S. grain. We urge the Committee to follow this approach as it proceeds with the development of legislation to reform the existing system.

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Mr. POAGE. We are very much obliged to you, Mr. Davis, for your statement.

It is our custom to ask our witnesses to stay with us until we have heard all of the witnesses, at which time they will return for a question and answer period.

I want to announce to succeeding witnesses, before anyone is caught by a certain rule, that we try not to have each exceed 10 minutes.

Some have exceeded that 10-minute period. I warn you now that if you have a statement which is going to run at length, then we would ask that you insert it in the record and in lieu thereof you could summarize it.

What happens is that we do not get through the testimony and then we have very little time left for questioning.

I will ask you to confine your statements to 10 minutes with the understanding that you do not have to read it in its entirety, but we can put it in the record.

I hope the witnesses will bear that in mind so that we may move along. Our next witness is S. Mason Carbaugh.

[The prepared statement of Mr. Carbaugh follows:]

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STATEMENT BY

S. MASON CARBAUGH, COMMISSIONER

VIRGINIA DEPARTMENT OF AGRICULTURE

AND COMMERCE

Mr. Chairman, Members of the Committee:

My name is S. Mason Carbaugh. I am Commissioner of Agriculture and Commerce of the Commonwealth of Virginia. My address is 203 North Governor Street, Richmond, Virginia 23219.

I am pleased to appear before this committee to present a statement for your consideration in responding to legislative proposals to update and improve the grain inspection procedures under the present U. S. Grain Standards Act.

We have had many years experience of working jointly with the USDA in implementing the U. S. Grain Standards Act in the Commonwealth of Virginia. It was in the year 1941 through cooperation of the USDA that we were able to acquire an individual qualified and licensed to perform grain inspection under the U. S. Grain Standards Act. From 1941 forward, we have continued this service uninterrupted.

During the past few years, we have gained considerable experience at the established facilities in the Hampton Roads port. One year we had a new experience when wheat (approximately 33 million bushels) was loaded through the coal piers in Newport News. At times during these experiences, our resources were taxed to the limit, but even so, we are satisfied that the quality and weight specified were loaded aboard ships.

It was in the year 1960 at the request of the grain company operating the Norfolk and Western Elevator in Norfolk that the Virginia Department of Agriculture and Commerce became the only agency providing official grain inspection in the state, and immediately was recognized by the USDA as the only agency to provide official grain inspection throughout Virginia. We not only make the grain marketing services available to terminal markets, but also to country point markets so the benefits of the services can be realized by the farmer when the first sale is made.

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The grain inspection and certification program as conceived in the 1916 Grain Standards Act is considered to be one of the most valuable marketing tools, and very essential for any effective grain marketing program as a reliable means of identifying the product in accordance with accepted standards of quality.

When the U. S. Grain Standards Act was amended in 1968, our opposition to the use of the terms embodied in the Act as a means of identifying quality in the marketing channels by anyone except a licensed inspector was to no avail. We still believe that when the U. S. prefixes a grade term, it should indicate that the grain has been officially inspected by a licensed inspector. This, in our opinion, is essential for orderly marketing and the restricted use of such terms should be restored to the Act.

The value of identifying quality as an effective marketing tool has been well established. The Grain Standards Act from its inception was designed to create and maintain confidence in the quality identification from the producer to the ultimate user. Congress, in their good judgment, from the original Act in 1916 until the present time has affirmed that the program is in the public interest, and to the extent that it is in the public interest, should be financed from public funds. When the Act was amended in 1968, Congress supported those who opposed the change in funding, which change would have resulted in a considerable increase in the cost of inspection to the grain producer.

Mr. Chairman, we urgently request your committee to give serious consideration to the present method of funding this Act before making any changes in the law. The National Association of State Departments of Agriculture, including the National Association of Marketing Officials, for many years supported by resolutions the principle of funding commodity grading programs at the Federal level from public funds to the extent they are in the public interest. If funding for the grain grading services is changed as was proposed in the 60's and as is being proposed at this time, we will have labored in vain, and the farmers will be paying the cost for the grading services, not only to the extent that the services are to their benefit, but

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also to the extent that the services are to the benefit of the public. This we contend is wrong, has been wrong, and continues to be wrong.

In Virginia, we propose to continue our support of the policy to provide public funds to the extent that the service is in the public interest, and from fees, charged to the user, to the extent that the service can be identified to the user's benefit.

We have been highly pleased with our working relationship with the USDA in providing the grain inspection services to Virginia for many years, and strongly endorse this type of program for any state governmental agency that has the opportunity to participate.

In summary, our primary concern is the proposed change in funding this Act. According to a news release dated September 9, 1975, the estimated annual cost of the program under the proposed legislation is $9,277,000--approximately a 300 percent increase over the present cost of $3,126,000 annually in appropriated funds. Our concern increased when it was realized that of the proposed cost of $9,277,000, 85 percent or $7,857,000, would be recovered from fees, and only 15 percent or $1,420,000 from appropriated funds. We believe a very large portion of the sum to be recovered from fees will be from assessments against our services and others like it throughout the country, which in the end will be paid by the grain farmer.

In our opinion, there are too many people receiving benefits from an orderly grain marketing system for the farmer of this country to have to pay 85 percent of the total cost at the Federal level, which to a large extent is considered to be in the public interest.

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Mr. POAGE. Thank you very much, Mr. Carbaugh. We appreciate your statement.

We hope that you can plan to stay with us for the questioning period.

Our next witness will be Mr. William F. Brooks.

Mr. BROOKS. Thank you, Mr. Chairman.

There are two small changes in my prepared statement to which I would call your attention, and are in addition to the bills listed. Our remarks will apply with equal effect to H.R. 9697 which Mr. Melcher introduced last Friday.

There are two minor changes on page 9 in the fourth paragraph. The paragraph should read "Generally, export sales by grade are on the basis of a U.S. grade certificate final" and on the next to last paragraph strike out the fourth, fifth, sixth and most of the seventh line, so that sentence will read beginning at the end of the fourth line "the exporter will be paid on the basis of the necessary documentation, and that is substantial."

We are glad to be here, Mr. Chairman, to present our views on these pending proposals.

I would like this statement to be incorporated in the record in its entirety.

Mr. POAGE. It will be done.

[The prepared statement of Mr. Brooks follows:]

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STATEMENT

OF THE

NATIONAL GRAIN TRADE COUNCIL

The National Grain Trade Council is a voluntary unincorporated organization whose policy-making members are Grain Exchanges or Boards of Trade and National Grain Marketing Associations. These member organizations and in turn their members rely on the regulatory scheme and the provisions of the United States Grain Standards Act and the regulations issued under that Act as those members participate in the domestic and international marketing of the Nation's grain and oilseeds.

The pending House bills to amend the United States Grain Standards Act would substantially amend and revise the Act in a number of ways which may bring results detrimental to, and not beneficial to, any segment of the Nation's grain economy at expenses to all users and beneficiaries of that system far greater than the expenses of the present system.

In 1968, seven years ago, Congress, after extensive Hearings at both Committees on Agriculture, substantially revised the U.S. Grain Standards Act of 1916 and enacted in effect a new statute which, inter alia, made grain grading voluntary in interstate domestic commerce and mandatory in foreign commerce when sold or shipped by grade for export.

Licensing procedures for official inspection personnel were tightened. Access to official inspection might be controlled. Official inspection agencies were recognized and brought under the Department's control. A number of specified actions were prohibited. Certain enumerated "conflicts of interest" were prohibited as were "any other kind of activity specified by regulation of the Secretary as involving a conflict of interest".

Consistent with the Act and to carry out the purposes of the Act, proposed regulations were published in the Federal Register. After comment by interested parties, regulations were adopted prior to the effective date of the Act. Those regulations have from time to time been revised. And there are pending now a number of proposed revisions.

I know that the Committee, the Committee's Staff and others interested in grain grading activities will profit from a study and a basic understanding of these regulations.

The Regulatory Scheme of both the 1916 Act and the 1968 Act contemplated initial sampling and grading by non-federal employees whose work would be supervised and checked by U.S.D.A. employees. This

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supervision encompasses spot supervision; federal employee grading of samples with those grading results compared to the results of initial licensee grading; and the supervision found in the statutory established appeal process from an initial grade.

The appeal grade on an appeal from an initial grade is determined by a federal employee assigned to a Grain Division A.M.S. Field Office. And under the regulations, an applicant may appeal that federally determined grade to the Board of Appeals and Review.

This appeals procedure or procedures are understood and used by buyers and sellers in both interstate and foreign commerce. Structured as it is after an initial grade has been determined by a non-federal employee, the process permits a system of checks and balances in grading results. That system is one of the factors which tend to minimize, and often to eliminate, inter-market differences in grading results.

In fiscal 1974, there were an estimated 4,000,000 initial inspections and the same volume of initial inspections were estimated for fiscal 1975. From these 1974 initial inspections, 21,942 appeals were referred to Grain Division Field Offices.

And of these, 80 percent of the initial grades were sustained. Of these appeals, 205 were carried to the Board of Appeals and Review where 80 percent of the original grades were sustained by the Appeals Board.

If my arithmetic is correct, users of the grain inspection service as now constituted and operating were dissatisfied with less than one percent of initial grades.

It is of some significance that 80 percent of the appeals taken were found to be without merit.

And not all appeals were taken because of dissatisfaction with initial grades. Some purchase and sales contracts both for export and domestic commerce provide for an appeal grade. In those circumstances, two initial samples and initial grades are obtained and paid for. This less than one percent figure can and should, therefore, be further reduced to the extent that appeals grades are required by the terms of purchase and sales contracts.

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Our understanding is that almost all soybeans export purchase and sales contracts are on the basis of a Federal appeal grade and that all corn sold into Mexico, most of which is rail shipped, is on the basis of a Federal appeal grade.

During fiscal 1974, 10,300,000,000 bushels of grains and soybeans were inspected or reinspected. And for fiscal 1975, the Department estimates that 10,500,000,000 bushels of these commodities will be inspected or reinspected. These include "voluntary" inspections in domestic commerce and "mandatory" inspections in export.

During the past twenty-four months, the Nation's grain grading and marketing systems have been the subject of investigations by a number of Agencies.

A number of indictments were returned by Grand Juries sitting in New Orleans and Houston. Some of these have been disposed of and others are awaiting disposition.

The F.B.I. and the U.S.D.A.'s Office of Investigation are continuing their investigations into alleged violations of the United States Grain Standards Act and other statutes.

Members of Congress and Congressional Committees have requested the General Accounting Office to look into grain grading under that Act either generally or in some limited respects. At the G.A.O., some thirty-five added employees are now engaged in those activities.

And there have been allegations that, in handling and merchandising grain, there have been violations of the Food Drug and Cosmetic Act, and the U.S. Grain Standards Act, and that some weighing procedures have constituted fraudulent practices.

All these allegations are serious and demand complete, thorough, temperate, and objective investigation. And Congressional action may well be warranted as these charges are resolved and these investigations completed.

As these investigations proceed at Grand Juries - at the U.S.D.A.'s Office of Investigation - at the General Accounting Office - at the Department of Justice - at the Food and Drug Administration - at Congressional Committees and Subcommittees - no individual or group of individuals should be prejudged or judged on the basis of alleged misconduct or by the fact that the investigations are underway. Every person alleged to be involved should retain his and their presumptions of innocence granted by

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the Constitution. And no one in the decade of the seventies should engage in a tactic of the fifties and assume or find guilt by mere association.

The Council shares Chairman Foley's expressed hope that the pending House bills will serve as a basis for your committee's study in order that the committee "may come up with meaningful legislation that will not only prevent a repetition of past irregularities but will improve the effectiveness and reliability of the present inspection system."

Increased penal deterrents

Each of the pending bills would, in varying degrees, increase the criminal penalties which a court might impose after a guilty finding or plea to a charged violation of the Act. Because the Council believes that criminal violations of the Act should not be treated cavalierly, we feel that increased penalties will at least tend to prevent repetitions of past irregularities and to improve the effectiveness and reliability of the present inspection system.

Weighing Practices and the Grain Standards Act

We believe that weighing practices and procedures are subjects which require separate and distinct meaningful Congressional consideration apart from any study of the Grain Standards Act.

Bulk grain when moved by rail is subject to the economic regulation of the Interstate Commerce Commission. The matter of rail weight shipments is supervised and regulated by the I.C.C. based on weighing rules and requirements promulgated by the Association of American Railroads with various rail weighing and inspection bureaus cooperating in weighing supervision.

The I.C.C., these railroad organizations, and supervised and supervising grain markets have a long history of participation in complex joint efforts to assure accurate weights for all purposes.

An indication of the complexities of rail weighing and weight problems is an I.C.C. proceeding No. 35220, "Grain and Grain Products -- Practises and Policies in the Settlement of Loss and Damage Claims". This proceeding has been pending for five or six years and may now, on

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the basis of a Federal Register notice of September 11, 1975, be at long last concluded.

The knotty and complex problems of rail weights and weighing problems are magnified when one looks at these problems in the movement of bulk grain by truck or barge.

These movements are subject to no economic regulation. The solution of these problems cannot, because of antitrust limitations, be the subject of joint-carrier or joint-shipper or joint carrier-shipper efforts.

Our judgment is that the weighing and weight problems connected with the bulk movement of bulk grain by truck or barge, even if one assumes that movement to be germane to the subject matter of the Grain Standards Act, deserves Congressional study separate and apart from a study of the administration of the grain standards and operations under that Act.

Weights and weighing practices are germane to the administration of the U.S. Warehouse Act. And a study of that Act's effectiveness by this committee might well result in legislation to prevent a repetition of any past irregularities in weights or weighing practices.

Operation under the Grain Standards Act

Although inspection and grading of grain in domestic commerce have not been mandatory since 1969, the lion's share of that commerce continues to be inspected and graded by official inspection personnel. As grain moves from farmers through the various parts of the marketing channels, there may be a number of inspections before it reaches its final destination aboard ship, at a processing plant, or a feed lot.

Grain handlers year in and year out are expected to, and do, move into consumption as much of the production of each year's crop as is possible in spite of yearly variations in those factors which are beyond a farmer's control and which require blending by grain handlers to market such grains as are produced and to satisfy each handler's customer. To have economic value, grain must find a market. And to find and retain markets, farm run grain with varying qualities and grading factors must be blended to meet grade specifications. In some instances this blending process begins at on-farm storage sites and may continue up to final shipment to an end user.

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Blending is an integral recognized part of the grain marketing process. The process is economically sound and assures a year in year out market for producers. For years, while the Commodity Credit Corporation was concentrating on selling its grain inventory, the Corporation's loading order recognized and used the process to dispose of or re-concentrate its inventory.

The Council recommends that Congress enact no statutory inhibitions or prohibition to prevent blending. Already the Food, Drug and Cosmetic Act makes adulteration illegal.

Grain inspection and grading are not represented as an exact science. The work must be performed by human beings who are working with standards meant to supply enough information to determine grain marketability for a variety of users. The grades and the factors that determine them should be capable of reasonably fast determination. Within certain limited tolerances, they should, if possible, be objective. And the process should be relatively inexpensive.

Grade changes under the Act are to be made after notice and hearing and in accordance with the necessities of the trade. The statute further requires a year's lag time before new grades become effective.

We believe this statutory procedure should be retained.

The industry and the government are constantly searching for more exact, efficient, less time consuming, and less expensive ways to determine quality factors and other factors of interest to some purchasers or users. This search and research will continue.

We have some reservations about Section 19(a) of H. R. 8764 which might be interpreted as requiring that protein determinations become a part of the grain grading process. And we have some concern about Section 19(b), limiting as it does the function of protein testing to State or Federal agencies.

In the present state of the art, protein testing and determination techniques are time-consuming and require a degree of technical competence not possessed by too many inspection personnel.

The 1968 Revision of the Act added a proviso to Section 11 to permit warehouse employee sampling of grain under regulations promulgated by the Secretary. Regulations have been issued. Qualified warehouse

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employees acting under these regulations have drawn and forwarded "submitted samples" which are graded by official inspection personnel with the grade certificate distinctly colored to indicate the origin of the sample.

To our knowledge, there have been no abuses of this six-year-old procedure. Our information is that its availability has expedited rail movement and allegedly, that this expedition of rail car movement has led to the saving of man hours and to the increased use of cars.

Because Section 10 of H. R. 8764 would eliminate the sampling procedure, we recommend against its enactment.

I want to review for you and for the record of these Hearings the figures showing actual inspected export liftings during the four crop years 1970-1971 through 1973-1974; relate them to the port handling and loading facilities available to move U. S.-produced grain into export in 1948 and 1949, and in so doing pose the question, "Who, if anyone, would want to mislead any foreign customers in view of the costly private expenditure invested in the facilities now available to move the Nation's grain and oilseed production from areas of production to a variety of foreign customers?"

As an indication of the cost of constructing export port elevators, there is under construction now a port facility with an original contemplated construction of a headhouse and conventional storage tanks with capacity of about 7 million bushels of grain, plus a specially designed flat storage structure to handle a number of non-grain bulk commodities. The installation will have two truck dumps and two car dumps.

Originally, the cost was estimated at about 15 million dollars. And increasing costs of labor and materials will now, it is estimated, mean a final cost of 25 million dollars plus, in spite of changes in the original plans to prevent further increase in the costs of construction.

All segments of the grain marketing system participate in moving this production off and through four port ranges: The Great Lakes and the St. Lawrence; the Atlantic Coast; the Gulf Coasts; and the West Coast. This production is moved from the Nation's many areas of production by truck, rail or barge, or a combination of them and more recently by lighter to be loaded aboard ship - all in response to effective demands, domestic and international, registered in the open market. And this means a potential movement in any number of directions.

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Unlike the Canadians, who can move their crop either in an easterly or westerly direction only, our grains and oilseeds can move and do move in any direction or several directions as market prices dictate without the intervention of a Government agency comparable to the Canadian Wheat Board.

United States exports of wheat, corn, barley, sorghum, and soybeans, for the several crop years noted above, totalled for --

The crop year 1970-1971 .... 48,197,000 MT or 1,828,943,000 bushels
The crop year 1971-1972 .... 51,116,000 MT
The crop year 1972-1973 .... 82,207,000 MT
The crop year 1973-1974 .... 83,585,000 MT or 3,185,493,000 bushels

Back in 1948, an informal trade estimate was developed to determine the national maximum grain export loading and handling facilities. The problem this country then faced was to maximize the export movement of wheat - and wheat alone - to be shipped out under the Marshall Plan and other relief feeding programs.

It was then estimated that, under optimum conditions - no interruptions of movements to and through interior markets - no breakdown in domestic transportation - coordinated arrivals and loadings of ships at ports, -- 425 to 475 million bushels of wheat might be moved into export in any twelve months period through the then existing export loading and handling facilities.

Converting this volume to metric tons, it might then be possible to export in a twelve-month period 12.3 to 12.9 million metric tons of wheat.

Now here we are twenty-five years plus later, during the crop years 1973-1974 when all grain and soybeans inspected for export and moving into export totalled 83,585,000 MT or 3,185,493,000 bushels - about seven times the volume of wheat exported under optimum conditions in 1948.

And the 1970-1971 crop year exports were four times the 1948 export shipments.

This increased and increasing movement was possible only because grain firms have invested time, energy, talent and tremendous capital into new and improved facilities at ports and at interior points and markets; because substantial investments have been made in new transportation equipment - barges, trucks, more efficient rail cars - and because

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United States firms have developed international sales organizations to move U.S.-produced grain to overseas buyers that they may realize some return of their invested capital - all to the end that this Nation's farmers and grain handlers and grain exporters may retain for our Nation its reputation as a dependable source of grain and oilseeds.

And contributing to this posture is the present regulatory scheme of the United States Grain Standards Act.

Because provisions of at least two of the pending bills would, if enacted, seriously impair the export of United States grain and oilseeds, we wish to describe briefly export trade in these commodities, relating that trade to the provisions we find unsatisfactory in the pending bills.

Generally, export sales by grade are on an F.O.B. basis with the U.S. grade certificate final. Title and risk of loss pass to the buyer when the grain is loaded aboard the ocean-going water carrier with the ocean freight booked by the buyer for its account.

Grain destined for export is generally accumulated over time from a number of interior or inland locations or stations. Purchases may be made at these points by the exporter and moved to export positions for the exporter's account. Or they may be made on an F.O.B. basis at an export facility. In the first case, the exporter pays for the grain when it is loaded on a carrier at the interior point. In the second case, the exporter pays for the grain when it arrives at the export facility. In both cases, payment is made for the grade and quantity specified in the contract of sale.

Now these payments are financed by the exporting buyer through lines of credit established at commercial banks. This credit is extended because the banks know that when the grain to be exported has been loaded aboard a vessel in accordance with an export contract of sale, the exporter can draw on a letter of credit or letters of credit posted by his overseas purchaser and thus obtain immediate payment for the grain he has delivered in accordance with his contract, provided, of course, that requests or demands for payments are accompanied by the necessary documentation, and that is substantial.

One of the basic reasons why banking institutions will extend substantial credit lines to exporters is their realization that under U.S. certificate final export sales, the bank will be reimbursed, with interest, for the credit extended to exporters to purchase at and from interior merchants and farmers sufficient inventories to meet actual or anticipated export sales, as quickly as the grain has been loaded aboard.

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To suggest that U.S. export grain sales be other than on a U.S. certificate final basis overlooks the realities of financing arrangements. To set a stage where it appears that sales might be on other than a U.S. certificate final basis would disrupt international trade in U.S.-produced grains to the particular detriment of U.S. farmers and in the immediate and long run, to the U.S. balance of trade.

And that stage will be set if the Federal Government is authorized to locate inspection personnel abroad to inspect United States grain on its arrival abroad or to monitor shipments of grain on its arrival abroad.

Sections 7 and 8 of H.R. 8764 are concerned with the wholesale registration of all grain handlers except with four minor exceptions. The reach of this section extends beyond requiring the regulation of users of the inspection service. This comprehensive registration requirement for all grain users, handlers, merchandisers, and processors should not be considered in connection with proposals to amend the Grain Standards Act.

We are convinced that Sections 7 and 8 of H.R. 8764 should not be approved.

All the pending proposals are based on the premise that when grain exchanges or boards of trade, whose members include grain firms or individuals having a financial interest in any part or parts of the grain marketing system, operate an official grain inspection agency, a conflict of interest inevitably results.

This premise is false. And we believe that there is little evidence, if any, and none we know of, to justify Mr. Butz's opinion in his letter of transmittal - "For example, employees of a private agency operating under the direction of a Board of Trade, whose members are principally grain firms, are considered to be vulnerable to being influenced to certificate grain improperly or to being less than fully objective in the application of the sampling and inspection procedures."

Section 13(a)(3) and 13(a)(7) of the Act prohibit attempts by anyone to obtain a false or incorrect official inspection form of any sort or to influence improperly any official inspection personnel.

We are aware of no instances where members or officers of Boards of Trade or of Grain Exchanges, operating official inspection agencies have been cited or charged with violating Section 13(a)(3) or Section 13(a)(7) of the Act.

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Grain Exchanges and Boards of Trade are recognized commercial institutions whose chief purpose is to aid in the orderly marketing of grain. Some of them, for some years now, have maintained grain inspection departments whose personnel, exchange employees, are trained and competent to sample, inspect, grade, test, and evaluate agricultural commodities and products with their main sampling and grading activity directed to those grains and oilseeds for which standards have been set by the Secretary of Agriculture.

All these samplers, graders, and technicians concerned with these standards are now licensed under the Grain Standards Act. Their competence is reviewed generally as their work is supervised and checked by Federal supervisors. Triennially, at least, they are tested for competence. And they can be tested more often at the discretion of the Secretary.

Typically, an inspector's career starts as a licensed sampler. While there, he is in effect an apprentice as he becomes familiar first with sampling equipment and then with grading equipment. Gradually he becomes qualified to apply for a license to grade one grain and then another, provided he can meet the requirements of the regulations and pass the necessary tests.

Inspection personnel, employees of States, Grain Exchanges, Boards of Trade, or independent contractors, have an investment of effort and time in a career which should not be ignored or overlooked in any proposal to revamp the regulatory scheme of the present Grain Standards Act.

And so also do official inspection agencies, whatever their ownership or sponsorship, have an investment of time and effort in the personnel now in their employment and licensed to perform parts or all of the grading process.

In addition, these inspection agencies have a substantial investment in the specialized limited use equipment which it is necessary to own and control to obtain and retain a designation as an official inspection agency.

Over and above these investments, however, is the overriding consideration that almost without exception, almost all these non-state inspection agencies are so situated that their continued operation is oriented to the orderly marketing of grains. To disturb or prohibit this availability will be detrimental to producers and the entire grain marketing chain.

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Official inspection agencies and their personnel must comply with all the provisions of the Grain Standards Act. Agencies and their employees are of course subject to the enforcement provisions of the Act. These grant the Secretary broad visitorial and investigative authority. And agencies and their personnel are subject to the regulations issued under the Act.

Fees charged by agencies must be non-discriminatory and reasonable and cannot be used to pay the costs of operating any activity or function not related to official inspection functions. And schedules of fees must be published and made available to users or prospective users of the services of any group.

Grain Exchange or Board of Trade inspection fees are at the low end of the inspection fee range. Inspection fees charged by States or State agencies are uniformly in excess of those charged by Grain Exchanges. And fees charged for inspection services performed by Federal inspection personnel are well in excess of fees charged for services performed by Grain Exchange or state personnel.

Any change in the present regulation scheme leading to a Federalized grain inspection service or to a Federal-State inspection service will mean greatly increased inspection service charges. And these will fall on farmers, processors and other end users - resulting in lower returns to producers or in higher prices to consumers or a combination of these results.

I would like to quote from a letter that is set out in full at page 72 of Part 2 of hearings, held earlier this year, on grain inspection, on S. J. Res. 88 before two subcommittees of the Senate Committee on Agriculture. The letter was written by Donald M. Mennel, Mennel Milling Company, Fostoria, Ohio:

"The present system of checks and balances with the check of the independent inspection agencies performing the initial inspection and the balance of the Federal appeal system, as well as Federal supervision, watching over the independent agency has created a system that over the years has moved billions of dollars of grain with a minimum cost and minimum disruption. To disturb this proven method that satisfied the vast majority of domestic and responsible foreign buyers could have catastrophic consequences. I urge you to move with extreme caution. This is an area that requires the highest degree of economic statesmanship".

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As a personal observation --

I have now been associated with the grain trade for a bit over twenty-eight years. Some of our exchange members operate grain inspection departments. Others do not. And never in these twenty-eight years of exposure have I heard any complaints or concerns, from Directors representing any of these markets on our Board, that a conflict of interest existed at an exchange where an inspection agency was located - let alone a complaint that because of some undue influence, it was not possible to get accurate grain grades at any exchange or certain exchanges.

We urge, as did Mr. Mennel, that, in your deliberations on the pending proposals, you move with extreme caution "in an area that requires the highest degree of economic statesmanship". And we recommend that the legislative product of your current deliberation be subject to public hearings at a later date. Following this recommended procedure will indicate that you have moved and will move with "extreme caution".

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Mr. POAGE. Thank you very much, Mr. Brooks.

Our next witness will be Mr. Charles Frazier, director of the Washington staff, National Farmers Organization.

Mr. FRAZIER. I have handed to the clerk an addendum to the testimony prepared to suggest a couple of technical changes in one of the bills which I would appreciate having placed in the record following my testimony.

Mr. POAGE. Yes sir, and without objection the whole statement and the addendum will be inserted in the record.

[The prepared statement and the addendum of Mr. Frazier follow:]

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Statement of Charles L. Frazier
NATIONAL FARMERS ORGANIZATION
Before the Committee on Agriculture
U. S. House of Representatives
Washington, D. C. 20515
September 24, 1975

GRAIN GRADING AND INSPECTION

Mr. Chairman and Members of the Committee, we appreciate this opportunity to testify on the provisions of bills before you relating to grain inspection, and commend the Committee for its interest in a program that is of such vital importance to producers and our foreign trade in grain.

The National Farmers Organization is moving a significant amount of grain for its members. We use truck, rail and barge transportation and consequently, have a great deal at stake in the operation of the grain ispection program.

Summary

In the following material we generally support the Bill H.R. 8764 introduced by Congressman Smith and other Members. We urge inclusion of Section 3 from H.R. 9697 by Congressman Melcher, which would establish the Inspection Service as a full-fledged agency in the USDA and identify responsibilities of the Director of that Office.

It is considered urgent, when the Committee deems it appropriate to move forward with permanent legislation, that such a revision of the Act --

1) Restrict the licensing of graders to Federal or State agency personnel;
2) Put the weighing of grain that moves in interstate commerce under the Act;
3) Provide for simple registration of all grain handling firms seeking service under the Act to facilitate equitable administration;
4) Require an immediate review of the Grain Standards currently in use and the adoption of regulations to curtail adulteration of grain; and
5) Elevate the grain inspection service to full agency status in USDA, to be headed by a Director capable of restoring to the service and the administration of this program a more reasonable degree of respectability.

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The Committee has an opportunity to make a significant contribution to the integrity with which grain is traded in the United States and improve our position in foreign markets. We are seriously concerned, however, that the widespread reports of sandalous performance in the Gulf port locations may mislead the Congress. Correction of those shortcomings in the Ports without comparable improvements in the interior would not be sufficient. We hope to impress upon you the urgency of enacting reform in this service as it applies in the major grain production areas.

Comparable Provisions

First, it is appropriate to acknowledge that both the USDA proposal, H.R. 9467, and bills introduced by several Members of Congress would authorize or permit:

a. Original inspection and grading by federal personnel under some circumstances;

b. Elimination of inspection by personnel who have a financial interest or any business activity engaged in warehousing, storage, transportation or merchandising of grain; and the imposition of stringent penalt es for feloneous acts involving assault, intimidation bribery or interference;

c. Stronger provision for withholding of the inspection and grade service from a firm found guilty of violating the Act;

d. An increase or modification of fees to be charged the user to compensate for improved service.

H.R. 9467

The legislation drafted by the USDA would add 175 man-years to the Federal Supervisory staff and establish quarterly payment of fees by designated inspection agencies. It requires review and triennial designation of such agencies.

This bill would continue the licensing of private firms to inspect and grade grain in spite of the sordid record of violations and fraudulent activity recently exposed by investigations in the Gulf area. So far, more than 50 individuals have been indicted and investigations have not been completed. It is fair to note that a great number of faulty actions disclosed up to this point in time have occurred where private agencies are responsible for grades and weighing.

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It has been indicated that 226 supervisory federal inspectors now oversee the work of about 800 licensed grain graders. The proposal to increase the ratio of supervisors from the 1 to 4 balance currently in effect to a new 1 to 2 relationship is very short-sighted unless the Government also resolves to correct basic faults in the system.

Such a band-aid approach simply would ignore the basic fault inherent in a private agency system in which one of the parties to a commercial transation is paying for what is supposed to be a public service and is in position to influence directly or indirectly the future income of the person supplying that service. The problems that are generated by the volume of samples to be handled, retention of samples for appeal purposes and payment for a second grade at the appeal level, are such that the first grade must be made more reliable or the whole system will continue to break down.

In order to be wholly objective in its review of various legislative proposals, the Committee might very well examine carefully the motives behind some of the recommendations placed in the record. For example, it is known that the United States Department of Agriculture conferred with a substantial number of State Commissioners of Agriculture early in July to present a draft revision of the Grain Standards Act.

Responsible personnel at high levels in the Department concluded at that time to recommend the elimination of inspections by licensed private agencies. It was also believed appropriate to strengthen the federal service by expanding supervisory activity and providing for original inspections by federal personnel where the State did not desire to do so. The proposition called for retention of authority for inspection and grading by a State agency. It was contemplated that such a state agency would enter into an agreement with the Department and conduct specific inspection functions through the use of adequate facilities and qualified personnel, all in accordance with national standards and federal supervision.

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Fees were to be charged that would compensate the State Agency for its services, or the Federal Agency, where it performed the original grading function.

The proposed plan would have established five regional offices to provide the more comprehensive monitoring activities and training. It also contemplated that most of the 23 States presently performing some or all of their grain inspections would continue to do so.

Those plans seem to have been well developed and according to reports on the conference, the USDA leadership and most of the State Commissioners in the conference carefully concluded that the proposed Federal/State system would be preferable to other alternatives. The system would provide a uniform approach in training and supervision in the application of the standards. It would reduce discrimination and re-establish confidence in the U.S. Grain Grade Certificates.

If the question has not been clearly presented up to this point in the Hearings, it is suggested now that the Committee is entitled to a full explanation as to why this approach was abandoned after it was apparently agreed upon in a manner sufficiently firm to warrant its presentation to State authorities.

If the switch occurred primarily as a result of political motivation and a desire to reduce the image of Government regulation, then it is entirely appropriate for the Committee to examine the current Department recommendations with this in mind. In fact, it is a bit incongruous to change position for that reason and then recommend doubling the supervisory staff without more meaningful change in the system.

The merits of the plan discarded in favor of the provisions in H.R. 9467 outweigh any superficial argument about regulation. An honest and objective system of weights and grades can become a real service to all who sell or trade in grain. It is not a regulatory activity. The users pay for the service.

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H.R. 8764

There are distinctive features in this bill responding to needs of producers and country grain shippers that should be incorporated in any legislation reported by the Committee.

Elimination of all private agencies in grain inspection and firm provision for original inspections by Federal personnel in export locations is a minimum action to be taken in revision of the old law. H.R. 8764 would accomplish these objectives.

H.R. 8764 requires registration of all persons or firms handling grain in interstate commerce. This, too, is highly desirable from an administrative standpoint. A great deal of grain is moved by truckers. In some instances, it is not readily apparent as to who owns certain country elevators or trucking operations. The proposed registration would be a simple matter of identifying owners, officers and a list of the business locations. This should enable those administering the Act to identify readily who may be held responsible in case of violation of the standards, misuse of certificates or the issuance of deceptive weight tickets.

Some opposition to this provision has been based on the premise that USDA now has a computer listing of dealers. A list of storing elevators who have UGSA arrangements with the CCC is maintained by the ASC. The Federal Warehouse Act people have a list of houses licensed under their authority. These are not complete listings, however, and are not used by the Administrators of the Grain Standards Act.

H.R. 8764 strengthens the old provision for withdrawal of inspection service from a firm in violation of the Act. The old provision required conviction under the "Prohibited Acts" section of the law before the Secretary could refuse to furnish service. This bill provides for more expeditious action but it still requires that a hearing be afforded the person or firm suspected of violation and provides that such hearing be held within 30 days.

We support the concepts proposed in H.R. 8764 that would encourage the USDA to review and modernize the standards to facilitate trading in high-quality grain. Prices now paid for feed grains and soybeans

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are at least sufficient to warrant proper care of these commodities as they move through trade channels. These standards are out-of-date. Problems in wheat grading are also long overdue for consideration--the free wheeling use of the designations 'yellow hard winter' in the Oklahoma-Kansas-Missouri area and the labeling of millions of bushels of soft wheat produced east of there as 'garlicky' or 'light garlicky'--have needlessly cost producers millions of dollars. The proposal to make adulteration of grain illegal coupled with a review of grade standards can contribute substantially to fair settlement with producers, savings for domestic traders, as well as improvement in our foreign sales.

Weights

It is strongly recommended that any legislative action to improve and update the U.S. Grain Standards Act place with the Administrators of the Act responsibility for a supervisory or oversight function on weighing of grain moving in interstate commerce.

First, it must be acknowledged that this is now generally the responsibility of State agencies. Some of the states have good programs but a number of them apparently are ineffective. The Federal warehouse authorities of course take an interest in the quality of the work performed when there is reason to investigate or be concerned about the conduct of business at a warehouse that is federally licensed but that agency has no authority to exercise overall supervision of all houses and it is not staffed to do so.

It is generally agreed by country shippers in the Middle West that fraudulent or careless weighing of grain is a problem equally as serious as those involved in grain inspection and grading. It is important to understand that this void in adequate supervision also applies at country and terminal points and not alone at the export locations.

For example, the NFO Grain Department recently had occasion to check carefully on the weights furnished to them on 13 cars of soybeans shipped through a Mid-West elevator to a port elevator in New Orleans. The average loss in weight was approximately

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3,000 lbs. per car. The weighing of the grain at the point of origin was under the supervision of one of the Mid-West grain exchanges. Our own people were convinced that they did not have 13 leaky railroad cars in one shipment, and they encountered stiff argument at the receiving elevator when the arrival weights were questioned.

They later ran a check of their own by having some of the cars loaded at this particular country point re-weighed on railroad scales a short distance from the point of origin. This check disclosed a 2,000 lb. per car difference after a very short haul. The conclusion was obvious--the loading elevator had simply issued weight tickets for more grain than had been placed in the cars.

Our Grain Department personnel are convinced that this occurs all too often, but it is both difficult and expensive to run your own check on all the grain that you are shipping. We have had similar experience with barge loadings handled through commercial houses.

Moisture Meters

In addition to our problems with grades and honest weighing of grain, moisture readings, particularly on corn and soybeans, directly influence the discounts and settlement prices. There are a great number of inequities in first sales at the country warehouse level. The modern tendency to harvest grain with high moisture content, and the physical damage to some grain in this harvesting and drying process, has made it progressively more difficult to get a good moisture reading in recent years. This problem has probably contributed to more dishonest grain pricing at the local level than any other single factor, especially with corn and soybeans.

The Motomco meter was designated as the official meter for all licensed grain inspectors and the Federal offices starting in 1962 and 1963. Readings on other equipment are often substantially different from those obtained on the official equipment with grain of the same moisture content.

There are real efforts in only a few States to require that moisture meters used in country elevators be properly calibrated and checked.

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In many instances, we simply have no recognized authority that is responsible and available to check this equipment.

Since the discounts applicable for moisture are substantial, and since the legislation we favor will call for Federal or State agency personnel to perform all original inspections, it is reasonable to require that the new Federal Grain Inspection Service establish more stringent standards for all moisture meters that are to be used at State or Federally licensed warehouses and that a system of checking the meters be instituted in each State.

We are pleased to hear that the Bureau of Standards is currently working to develop a moisture meter that would produce more consistant readings, and that could be more easily standardized. It is not suggested that the Congress can legislate the development of a better meter, but a provision of law can require that meters used in grain entering interstate commerce meet reasonable standards of performance and be checked by responsible State or Federal personnel.

H.R. 9697

Many provisions of this bill are similar to those in H.R. 8764, including provision for purchase of equipment and employment of personnel of good character now in the private agency service. However, one provision of this bill is unique and it is quite meritorious.

We urge the Committee to accept the section that would establish the grain grading service as a separate and full-fledged agency in the USDA. The proposal to have the Director appointed by the President, subject to the consent of the Senate, would be a valuable improvement over current arrangements. It would provide the Congress an opportunity to be assured that the Director is not only capable but also free of other administrative responsibilities, so that he may run this valuable service with a minimum of political or commercial interference. The duties of the Director set forth in the bill demonstrate very well the serious purposes to be served by this Office.

We appreciate this opportunity to set forth our views and offer our cooperation in the development of a sound bill.

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ADDENDUM
to Testimony of Charles L. Frazier, National Farmers Organization, on Grain Grading and Inspections

Since my statement was prepared, a certain amount of confusion seems to have developed concerning the purpose of the provisions in H.R. 8764 dealing with adulturation of grain and the treatment of foreign material in grains other than wheat.

Recommendation: On page 11, in Section 12 of H.R. 8764, lines 11-13, strike the language "Which would change the character or test weight from the test weight or character prevailing at the time of first purchase."

Comment: This would add to the list of items in Section 13(a) of the old Act, entitled "Prohibited Acts", any intentional adulturation of grain by the addition of water, dirt and other foreign material. It should be noted that fumigation and blending of the same kind of grain is specifically authorized and there should be no conflict between the intent of this addition to Section 13(a) and the acceptable grain practice of blending lots of grain of different quality to produce a desirable lot that meets some particular contract requirement.

Recommendation: On page 15, Section 16(a), line 11, strike "tenth" and substitute "one-half".

Recommendation: In the same Section, add a new item (vi) as follows: "As used in this Act, 'foreign material' shall be all matter other than the kind of grain being inspected; and also pieces of kernels of the kind of grain being inspected which will pass readily through a seive of the size and description defined in the U.S. Grain Standards Regulations for determination of foreign material for that particular kind of grain."

Comment: It is widely believed that the old standards and designation of seives to be used in the case of corn date back to a time when a large part of the crop was open pollinated. The character of the kernels has changed. We believe the language in the new bill or the accompanying Report should encourage the Secretary to review these seive size provisions, especially as they apply to corn, for the purpose of providing treatment of other grains comparable to that accorded to wheat in current grading regulations.

In other words, it would be highly desirable to get the weevil dust, insect eggs and other 'fines' that commonly contribute to a bad reputation for our corn in international trade out of the product as dockage. It is even more important to prohibit the addition of such material to good quality corn and soybeans after they leave the farms and start to move through the channels of trade. We are not talking about a prohibition against blending. We are seeking to stop a rather common practice -- the addition of extraneous material -- by excluding it from the net weight of the product on which settlement will be made.

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Mr. POAGE. Thank you, Mr. Frazier. We appreciate your statement. We hope you can stay with us.

Our next witness will be Mr. Harry Bell.

[The prepared statement of Mr. Bell follows:]

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Statement of Harry S. Bell, President, South Carolina Farm Bureau
Representing the American Farm Bureau Federation
425 13th Street, N.W.
Washington, D.C. 20004

September 24, 1975

We appreciate the opportunity to present our views on the grain inspection system. This is a matter of vital importance to Farm Bureau members. A reliable grain inspection system is absolutely necessary if we are to insure that both domestic and foreign buyers of U.S. grain will receive the quantity and quality of grain they have agreed to buy. The need for such a system becomes increasingly urgent as new threats arise to our competitive position in the world grain market.

Farm Bureau is the largest general farm organization in the United States with a membership of 2,393,731 member families in forty-nine states and Puerto Rico. It is a voluntary, nongovernmental organization representing farmers who produce virtually every agricultural commodity that is produced on a commercial basis in this country, including products destined for export markets as well as domestic consumption.

American farmers have a huge stake in international trade. In the coming year U.S. producers will export almost 60 percent of their wheat crop, around 25 percent of their corn crop, and about 50 percent of their soybeans. Producers must either export in these magnitudes each year or sharply curtail their output.

As a result of this high volume of exports, agriculture's contribution to the U.S. trade balance was nearly $12 billion in fiscal 1975. This means that the U.S. exported almost $12 billion more in agricultural products than it imported. This difference more than offset a deficit of some $9 billion in nonagricultural trade, giving the nation an overall trade surplus of $2.8 billion, despite the quadrupling of petroleum import prices by the oil cartel. These figures indicate that our total economy, as well as American agriculture, has a very great stake in international agricultural trade.

The maintenance and expansion of this volume of exports will not be possible if the U.S. grain inspection system does not insure that grain delivered to purchasers conforms with contract specifications.

The U.S. must make every effort to restore confidence on the part of foreign buyers that we are a reliable supplier--and that the information in our inspection certificates is accurate.

Our agricultural export markets are far too important--both to farmers and to the total economy--to permit irregularities in grain inspection. Foreign dissatisfaction with our products ultimately will encourage our customers to seek alternative sources of supply.

The American Farm Bureau Federation urges that prompt and effective action be taken to restore confidence in the present federal-state-private inspection system.

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At the September meeting of the Board of Directors of the American Farm Bureau Federation, the following action was taken:

> "That we support amendments to the existing United States Grain Standards Act that will improve grain inspection and operations of official inspection agencies of USDA. Such amendments should be aimed at restoring the integrity of the present grain inspection system."

Accordingly, the Farm Bureau supports H.R. 9467. We oppose legislation which would abandon the present predominantly private system and create a federal, or a combination federal-state, inspection system. We believe it is better to take aggressive action to strengthen the present system than to discard it in favor of a federal, or state-federal, system. In addition, it would appear to be wise to await the reports of the USDA, GAO, FBI, and others before dismantling the existing system of grain inspection.

This is not to say that no changes or improvements are needed to rectify the problems and deficiencies associated with our present grain inspection system.

In many cases, the recent problems and complaints have resulted from years of neglect. We suspect that the USDA already has ample authority to tighten the present system but lacks the required manpower.

Under existing authority USDA has recently made several amendments to the regulations under the U.S. Grains Standards Act with reference to the use of automatic sampling equipment; procedures for the retention of samples; guidelines for performing stowage examinations; and the clarification of certain provisions, procedures, and definitions.

While many aspects of the present inspection system are satisfactory or can be corrected under existing authority, we support amendments to the existing United States Grain Standards Act to improve grain inspection procedures and the operations of official inspection agencies. Such amendments should be aimed at restoring the integrity of the present grain inspection system.

Farm Bureau supports the enactment of provisions:

1. To eliminate conflicts of interest by insuring that the designated agency or person performing inspection service is independent of both the buyer and the seller.
2. To allow the Secretary of Agriculture to suspend or revoke the designation of an official inspection agency--not merely the designation of individual employees--if it is determined that the agency has failed to comply with the Grain Standards Act.
3. To provide strict criminal penalties for violations of the Act.
4. To authorize the Department of Agriculture to hire the personnel needed to administer the necessary domestic and foreign inspection of U.S. grain in export channels.
5. To require improvements in grain sampling, weighing, and handling equipment.
6. To allow the Secretary of Agriculture to collect inspection and designation fees from state and private official inspection agencies.
7. To authorize annual appropriations to the Department to cover necessary costs which are not covered by fees.

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The question of grain quality involves much more than the problem of inspection. Many complaints from foreign buyers have resulted from outmoded methods of transportation and handling. Other complaints from our export customers about grain quality reflect nothing more than a desire to void some high-priced contracts that became unattractive with lower world market prices.

Improving our grain inspection system will not solve all of the problems and complaints. Special attention must be given to grain standards and to grading, weighing and handling procedures in order to determine the actions needed to improve the overall grain marketing system.

In conclusion, Farm Bureau vigorously supports improvements in the marketing of grain to make our grain more competitive in international markets in order to obtain the highest possible price for producers.

We appreciate this opportunity to comment on this important legislation. We urge the prompt enactment of H.R. 9467.

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Mr. POAGE. Thank you, Mr. Bell.
We hope that you can stay with us for the questioning period.
Our next witness is Mr. Charles A. Stoffel.
[The prepared statement of Mr. Stoffel follows:]

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TERMINAL GRAIN WEIGHMASTERS' NATIONAL ASSOCIATION

LEGISLATIVE COMMITTEE

Floyd D. Harrison, Sr., Director and Secretary-Treasurer

Warren Duffey, Vice-President

Tom Stabler, Chairman

Charles A. Stoffel, Past President and Director

Statement of the Association

I am Charles A. Stoffel, Past President and Director of the Terminal Grain Weighmasters' National Association and I am a Grain Weight Consultant. I am making this presentation in behalf of our Association. Cooperating with me will be Mr. John Norton, Attorney for the Association of American Railroads. We appreciate this opportunity to discuss our activities as official licensed Weighmasters in all official weight Markets, on the H. R. Bill to amend the United States Grain Standards Act.

The membership of our Association includes the Association of American Railroads, the Eastern Weighing and Inspection Bureau, Southern Weighing and Inspection Bureau, Western Weighing and Inspection Bureau, Boards of Trades, Grain Exchanges, Chambers of Commerce and Independent Grain Weighing Agencies and Scale Manufacturers.

We have provided continuous and unbiased supervision of weights to the Grain Trade and allied agencies since 1919 when this Association was formed.

We have been meeting regularly with members of the U. S. Department of Agriculture, Warehouse Division. These joint conferences provided annual opportunities for discussion of weighing problems, both export and domestic; proposed changes in scale specifications, rules, tolerances, and regulations, as set forth by the Association of American Railroads and the American Railway Engineers' Association handbook.

The primary purpose of this Association is the promulgation of accurate and uniform weighing as a vital part of orderly marketing through the shipper, the carrier, the receiver, and the export elevator.

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We stand ready to explain to the Committee, the meaning of primary official weight classifications:

CLASS I. Weight Certificates issued by State Weighing Departments or Chambers of Commerce, Boards of Trade, Grain Exchanges, or other like Trade Boards, where weighing is performed by authorized elevator employees under the supervision of employees of any of the above organizations who witness the handling and weighing of all cars and/or contents.

CLASS II. Weight certificates issued by, or on authority of, State Weighing Departments or Chambers of Commerce, Boards of Trade, Grain Exchanges or other like Trade Boards where weighing is performed by authorized elevator employees, under the supervision of employees of any of the above organizations, who daily witness the handling and weighing of a representative number of cars and/or contents during each shift at each and every elevator.

We the Association, further hold the belief that changes are necessary but not as drastic as proposed by H. R. 8764.

Such proposals as are before the Committee, if passed, would create a chaotic condition, larger than the imagination of anyone here. By this we mean, for example, the adjudication of railroad grain claims. In simple words, it would completely deny the private railroads an opportunity to deny or honor claims.

It is the belief of the Association, that loss of grain in transit should be wholly the responsibility of the carriers and this system of private enterprise has worked very well through the history of rail movements of grain.

There are over 1,000 Grain Elevators having official weights being covered by Class I or Class II ratings through the Association of American Railroads which have had and still have excellent weights.

In the primary export elevators, grain is received by rail, barge and truck; also, all primary export elevators have official weights because of rail movement to them.

The export elevators use a combination of National Bureau of Standards, Association of American Railroads and Interstate Commerce Regulations, in the weighing of grain for export.

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There are Departments of Transportation, both State and Federal, which have their own specific rules and regulations for violations of which there are penalties, fines or imprisonment, or both.

Regarding H. R. 8764: Page 4 - Deceptive Weighing Practices - Section 3, beginning on line 25 and continuing on Page 4, lines 1 through 5 (c). "The Secretary shall promulgate regulations which shall require that all scales used for weighing grain in commerce, shall automatically stamp on a receipt or ticket, by means of a mechanical device, the true and correct weight of any grain weighed. The receipt or ticket shall be made immediately available to the buyer and seller of the grain."

For practical purposes in the regular course it is in most cases an impossible achievement and we therefore object to this.

Furthermore, to have such a mechanical device to stamp a receipt or ticket is no deterrent and no guarantee against falsification.

It also would be impractical if this Bill should pass and the effective date would be 180 days from date of enactment.

We the Terminal Grain Weighmasters' National Association wish to go on record as very definitely supporting the licensing of official weighers and also supporting and strengthening the criteria applied to any applicant for a weigher's license, that would be workable, practical, and economical.

We thank the Full Committee on Agriculture of the House of Representatives for this most timely opportunity to appear and testify on behalf of the Terminal Grain Weighmasters' National Association, all of the Weighing Agencies, and the regulatory and supporting Bureaus.

Thank you.

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Mr. POAGE. Thank you very much for your statement. We hope you can remain for the questioning.

That completes our list of witnesses. Are there further witnesses who wish to appear?

We then will ask all of you to return for the questions.

There is one point that has not been discussed by any of the witnesses. This point seems to me to be of certain importance. I would like somebody to discuss the applicability of the present trading rules. I am not sure that I know them, but I believe you allow 8 percent foreign matter in No. 2 corn, or 7 percent, is that correct?

Mr. BROOKS. We have Chief Inspector Lincoln here. I think he could answer that question.

Mr. POAGE. Is that not true, that you allow 7 or 8?

Mr. LINCOLN. Just 3 percent at grade No. 2.

Mr. POAGE. What is it in wheat?

Mr. LINCOLN. Five-tenths of 1 percent for No. 1, 1 percent for No. 2, and 2 percent for No. 3, 3 percent for No. 4, 5 percent for No. 5.

Mr. POAGE. Those are much smaller tolerances than I had understood existed, but even so, is there any feeling that those tolerances are excessive? Of course, any tolerance is going to invite adulteration because there is money to be made by adulterating within the tolerance.

Mr. FRAZIER. Mr. Chairman, if I might comment—In the case of corn they lump together broken kernels and foreign material. It is the purpose of some of the provisions of Mr. Smith's bill to seek revision of this and to get those factors separated.

It is valuable to have broken kernels go through with the corn, but I would like to get some of the other stuff taken out—like weed seed and so on, which tends to gather in the grain.

Mr. POAGE. Would you not allow something more than 3 percent of foreign matter and broken kernels?

Mr. FRAZIER. As the gentleman says, it is 3 percent including foreign material and broken kernels for No. 2 corn.

Mr. POAGE. I see.

When you are shipping tremendous quantities that move in foreign commerce, it runs into a great deal of money at the 3 percent figure. If someone wanted to substitute something of less value than the grain itself, then it can go into a great deal of money without violating any regulations or law.

I do not know that it is practicable to lower those figures, but I do know that each year we are geting better machinery. I would ssume that we are able to reach a degree of removal of foreign matter that could not be reached a few years ago.

Mr. BROOKS. Mr. Chairman, the foreign buyers who are interested in buying No. 3 corn for the last several years see no economic value of it. The bulk of the sales is the No. 3. I think that we should point out that these standards are set to move grain into consumption year in and year out. They are not meant to reflect each year's fair average quality as the Canadian and Australian grains do. You have a corn crop such as you had in 1974, and a bean crop such as 1974, it is a little difficult to do that. They have to be wide enough to be workable or narrow enough so that the foreign buyers know what they are getting.

Mr. POAGE. And you think they do meet those standards now?

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Mr. BROOKS. I believe they do.

Mr. POAGE. That is all I am trying to find out.

Mr. BROOKS. I think the change, if it going to be made, should be made through the process of hearing, and notice, and discussion.

Mr. POAGE. Thank you very much.

Are there other questions? I recognize Mr. Bergland.

Mr. BERGLAND. Is there any reason why the broken kernels should be classified as foreign material?

Mr. FRAZIER. We do not think so. We think this is the thrust of a couple of provisions regarding adulteration in the bill that you and Mr. Smith and others introduced. We would like to see a somewhat finer screen used in screening out the dirt and foreign material.

Mr. BERGLAND. I think the standards question ought to be overhauled from stem to stern by the Department, because there have been numerous changes in the technology in the production of the crops which results in a change in the size of the grains. The sieve used to establish the grains have not changed with that improvement in technology on the farm. I think, therefore, it is a matter that requires a complete review by the authorities in the Department.

Mr. Stoffel, on the matter of weighing, I am aware of an instance—I am sorry I cannot disclose the instance because some of the principals are collaborating with the General Accounting Office in an investigation, so I cannot divulge it—in which a shipper sent a bargeload of soybeans down the Mississippi River. When they were unloaded and the returns were submitted, he was shortweighed by 20,000 pounds.

The shipper called the warehouse where the grains were offloaded and asked if there could have been a mistake. The weighmaster at the other end said "There is no mistake, we do not make mistakes."

He, the shipper, asked the weighmaster if it could have been possible that a load of soybeans could have been unloaded before or after the barge that had been consigned by the shipper, but the shipper was advised by the weighmaster that it "was none of his business."

The matter is now in court.

What are the rules with respect to an honest reply from a weighmaster?

Mr. STOFFEL. Would you repeat that?

Mr. BERGLAND. What are the rules governing the availability of information that the shipper may have of a weighmaster concerning a dispute?

Mr. STOFFEL. To begin with, I have had no experience whatsoever in barge-weighing or export weighing at an export point. We have heard the same things. We have had the same complaints. I operate in Sioux City, Iowa.

But any inquiry by any shipper or receiver makes us duty bound to give the best answer we can, and if we cannot, we search out and give the final answer. We do that for anyone.

Mr. BERGLAND. Would your association bring disciplinary action against that weighmaster if such were the case?

Mr. STOFFEL. We have no such powers whatsoever. The only power we have is persuasion. We can deny or cancel an official weight certificate. That is the only power we have.

Mr. BERGLAND. Mr. Frazier, you introduced a new element in this discussion which I think is very important and quite relevant. That is

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the matter of the moisture requirements. Most of the grain sold these days will be artificially dried or sold on a basis that contains moisture above the tolerances. What is taking place in attempts to standardize the moisture testing industry?

Mr. FRAZIER. It is very difficult to deal with this. I know it is difficult for the people in the Department to deal with.

But, if I recall correctly, they adopted the Metomco as the official meter in 1962 and 1963. Corn today, for example, is a problem in measuring moisture because of the new harvesting methods, as we all know.

Most of the country elevators use another moisture meter, and quite frankly the experience of our people in the field shows great difficulty in getting a uniform reading. Quite often they will vary by 3 or 4 percent using the same meters, both of which seem to be properly calibrated.

As Mr. Brooks pointed out a moment ago, the 1974 corn crop was hard to handle. I think we have had a little more corn with light test weight the last year or so than in normal years. The test weight does enter into the moisture determination. I am told quite frankly by experienced men in the Middle West that most country elevators simply have lost or thrown away the test weight table and operate some meters carelessly. The salesmen of a prominent company traveling around the Mid West now advocate to the country warehouseman "buy on one brand and sell on the Metomco".

When the discount on corn was running about 1 percent for each half percent over 15½ you very quickly can gain 12 to 15 cents on a bushel of corn just by playing the moisture meter.

Obviously, we do not expect legislation will deal with the character and operation of all of these machines.

But I bring it up in testimony in the interest that we can encourage the Department, working with the Bureau of Standards, to come out with some more research, and perhaps give as a meter that will be more reliable. Above all, we need more supervision and testing of these meters out across the country.

In some States it is just almost a voluntary action on the part of the warehouseman. If he wants to take a submitted sample into the Federal office, or the State laboratory and check the calibration on his meter, then he can do so; if he does not do so, the odds are pretty good that no one will come by and check him for 6 months or may be even until the season is over.

Mr. BERGLAND. I see my time has expired. Thank you, Mr. Chairman.

Mr. CARBAUGH. May I respond to the weighing question?

Mr. POAGE. Yes, go right ahead.

Mr. CARBAUGH. Our Department does supervise one hundred percent of all the weighing that is done. It is done by licensed weighmasters. They are licensed by the U.S. Warehouse Act people. They are licensed by a weights and measures section. They are supervised by weights and measures people, and they are monitored and inspected.

They are also subject to supervision by the Southern Weighing and Inspection Bureau.

As a matter of practice, we do require the calibration and the inspection of the grain machinery for moisture. I mention this because I think you will want to consider the fact that there are effective pro-

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grams around the country regarding the licensing and supervision of weighing inspection, both the actual weight and the moisture meters and that sort of thing.

Mr. POAGE. Thank you very much, Mr. Fithian.

Mr. FITHIAN. Thank you, Mr. Chairman.

Mr. Frazier, you suggest that we elevate this to give agencies status for the grain grading service.

Mr. FRAZIER. Yes.

Mr. FITHIAN. I wonder if you would comment on that. I believe Mr. Bell, that you raised the question of the long-standing neglect. I wonder if you would comment as to whether or not that approach within the USDA might answer that.

Mr. FRAZIER. Mr. Fithian, grain grading service is now in the Agricultural Marketing Service, which is the largest agency in USDA, and is responsible for the widespread responsibilities in the marketing of all of our foreign commodities.

Of course they have personnel of good character. Our recommendation is not meant to reflect on them in any manner whatsoever. They are good people, but they have immense responsibility placed on one administrator's office, and our recommendation is simply to the effect that the grading and weighing of grain, involving billions of dollars in trading, is so important to both producers and people in the trade, that we believe that it deserves this treatment.

We think we should get a well identified administrator as head of it, so that he may be free of other administrative responsibilities and concentrate on cleaning up this service over the next couple of years.

Mr. FITHIAN. Thank you. Mr. Bell, would you comment?

Mr. BELL. I did comment that there has been neglect.

We would prefer to see a cleanup of what we do have and a strengthening of what we do have, and not the creation of additional bureaucracy. We have had enough of that.

I am afraid that we have seen in the past few days some further interferences in our agricultural economy that we do not feel are justified. That is another story completely.

But I do not believe we need to form an additional bureaucracy within the Department to handle it. I think that the present system can be improved to the point that it can handle it properly.

Mr. FITHIAN. The thrust of your testimony, however, was this. I am bothered somewhat by some of the testimony here in the past few days. I am speaking of a grain company who is employed by a grain trader. Does that bother you that kind of temptation would be placed upon a human being, given that we are all fallible?

Mr. BELL. We are all fallible. One of the points we made was that we feel that the present service should be independent of both buyer and seller. We think that is the first point to be made. That was the first point in our seven points.

Mr. FITHIAN. You would actually bring this into being, by what method?

Mr. BELL. Through the rules and regulations.

Mr. FITHIAN. You would set standards, and say they could not do this if they were associated with the company?

Mr. BELL. Yes.

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Mr. FITHIAN. I would like for any of the panel to respond to this last question which I have.

In our country we raise a lot of soybeans and corn. We have less wheat. With regard to corn, there does not seem to be much incentive and advantage to the producer who produces a higher grade, because they are not compensated. They are penalized when they produce something too wet.

I was in the district last weekend, and was quite surprised, given the fact of the season, that a substantial field had been harvested very close to my farm and had been harvested long enough ago that they had plowed the field.

I used to raise corn myself and I know they had to harvest some pretty wet corn. I know they had to use up some pretty important natural resources to dry this. I feel subjectively that if we had some way of compensating them for bringing it in at a higher grade, then we would avoid that sort of operation.

I am with you. I do not like more and more regulations, but I do think that we have to figure out some way of compensating the person who brings in a higher grade of grain, and I do not think we are doing it now.

Who would like to comment on that?

Mr. BELL. The American Farm Bureau Federation has had a position for some number of years that we should be compensating farmers for lower moisture as well as docking them for higher moisture. As a matter of fact, I believe October 15 there is a meeting set up to look into the grades themselves. We will probably have some further comments after that.

We do feel that if the farmer is going to be docked for foreign material, test weight, or moisture in excess of a specific amount, then he should be compensated if he comes in with a cleaner grain.

Mr. GRASSLEY. Mr. Fithian, may I get in on this?

Mr. FITHIAN. Yes.

Mr. GRASSLEY. Is it your point that it should be legislated or should it be brought back voluntarily through the industry?

Mr. BELL. Through the industry voluntarily.

Mr. GRASSLEY. I think that a key point in the whole thing is whether these ought to be legislated or not.

Mr. FITHIAN. We have representatives from the industry here. I wonder if, as a practical matter inasmuch as we have made no progress is in the last decade, what shall we do?

Mr. BROOKS. I think, Mr. Fithian, as you know, that you raise at the mercy of the elements, and the bogs, and everything else. It has always been my feeling that the industry does pretty well in a competitive way, and you are only as far away from an elevator as the telephone is. I think the marketplace itself will penalize that buyer of grain who fails to reflect an adequate premium for good quality corn or beans.

Mr. FITHIAN. It is to his enormous advantage to penalize—not penalize, but simply not give the premium and then at some subsequent stage——

Mr. BROOKS. If you do not get a premium at an elevator and you find somebody else does, you pretty quickly find another elevator. They are aware of this. They do business and they want to stay in business. They have an investment of brick and mortar at a given location. You will

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find that an elevator which is not giving a premium, and is giving it to someone else for identical quality, they will not be searched out.

Mr. FITHIAN. We produce an awful lot of grain. You are lucky to get it into an elevator. You take it wherever you can find the space and you are at the mercy of the guys running the elevator. That is the fact of the matter.

Mr. BROOKS. In many places in the country the on-farm storage exceeds the commercial storage. With that situation, if you want to find a better market, then that is the case but the general practice is to wait until the market conditions come which are most advantageous.

Mr. FITHIAN. What would be wrong with Mr. Bell's suggestion, that is, that we build in an incentive to produce better grain?

Mr. BROOKS. You might do this through the standards. I do not think it would work too well in the long run. I do not think that the incentive would be there because crop conditions change.

Mr. FRAZIER. Mr. Fithian, let me comment on that point. We like the provisions of the bill which you cosponsored to try to stop the adulteration of corn and soybeans by providing for the dockage items such as we have in wheat. I think this is a first step and an important one.

Second, we would review the standards which are applicable. In the case of corn we have the foreign material and the cracked corn which could be separated. The corn is now worth enough money and so are soybeans, that they both deserve treatment somewhat comparable to what we had for wheat in the standards. This is the principle that I hope the committee will keep in mind.

Mr. POAGE. Mr. Grassley.

Mr. GRASSLEY. This panel will be the third panel of which I have asked the same question. The first panel seemed to think there would be no detrimental effect, and the second panel thought that there would be a detrimental effect.

The question is this: Do you see that any of this legislation might lead to enough of a financial hardship on local country elevators, particularly the small elevators, that it might put them out of business?

Mr. BELL. I think it should be checked over very thoroughly to be sure that this does not happen. In other words, the regulations should not be drawn so that the small elevator will be put out of business.

Mr. GRASSLEY. You are not really sure?

Mr. BELL. Not sure.

Mr. BROOKS. I cannot answer with a multitude of bills in front of me. Take one and go down the line, and I am concerned about all of them having this effect.

This is one of the reasons that our recommendation, which I delivered here, but I am not sure that it appears in my basic statement, that when you develop the legislative product in these hearings that later hearings should be held on the one bill, which you do come up with to determine, among other things, the answer to the question you are asking.

Mr. CARBAUGH. Who pays the costs of supervision? How was it financed? We feel that it ought to be financed with public funds. It raises the question of how much supervision is enough and who decides how much supervision is enough? I frankly think that through the budgetary process that is the better way to make that determina-

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tion, then leaving it up to a negotiating proposition between the States and the users of the service, and I hope that this committee will certainly give that very serious consideration in extending the authority to collect a portion from the fees for supervision. I think it is entirely justified because a portion of it is in the public interest.

Mr. FRAZIER. I would comment on H.R. 8764. I see no reason for that bill to put a country elevator out of business. He is paying for grade service when the grain arrives at the terminal now and this bill contemplates that he will continue to pay for it.

It contemplates a little more supervision on the part of the Federal personnel, but he is still permitted to blend grain, he is still permitted to be a good grain merchandiser. This legislation puts no severe handicap on him.

Mr. GRASSLEY. Do I have time, Mr. Chairman?

Mr. POAGE. Yes.

Mr. GRASSLEY. Is there any other way that you gentlemen could suggest for having the grain checked at the country point where it is exported to, by people other than USDA employees, that is, to see that a good product either leaves the country, so it could be checked on this end, or else as it arrives there to be checked by the nationals there?

Mr. BROOKS. I comment on that in my statement, where you have somebody there to monitor it. I say that this would, in our judgment, set the stage to eliminate sales of U.S. grain for the certificate final which, if it were to be done, would be disruptive of our current export practices, all to the detriment of a balance of payments, and to farmers and others who are relying on an export market.

I do not have a copy of the statement, but the export people have a supplementary statement commenting on this very point about monitoring abroad. They listed some 8 or 10 situations that do arise in the course of ocean commerce which will not make an accurate grade destination obtainable under most circumstances, that is, an accurate sample. They are the technicians in this field.

Mr. GRASSLEY. Then you are saying it can deteriorate?

Mr. BROOKS. Yes; it can deteriorate with the shift in the cargo and you have to reconstitute it as it was loaded on the ship, in order to get the kind of representative sample that you have on the ship.

Mr. GRASSLEY. Well then, what about from the standpoint of having some national in the country that is being exported to, in this country to check?

Mr. BROOKS. We are still exporting in our grades. I think the general idea is that when you have grain standards and the system under which they are determined, then they can be here now, but I do not think they can participate in the grading.

Mr. BELL. We cannot quite see the danger in the monitoring system. In fact, I believe some other nations of the world do have this. I believe Brazil has it in soybeans.

Mr. BROOKS. A good deal depends on the marketing system of the exporting company.

Mr. GRASSLEY. So you favor having nationals in this country monitoring?

Mr. BELL. Yes.

Mr. GRASSLEY. Mr. Frazier?

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Mr. FRAZIER. I think the Department should have the privilege of placing personnel over there in a monitoring status only to check on the work of their own inspectors, in our own ports, on our own cargoes leaving here. I would be greatly concerned if we undertook to put men over there to inspect all cargoes and put those men in a position of trying to arbitrate between the large international grain companies and foreign governments.

I think this is something on which some caution should be taken.

Mr. GRASSLEY. I have finished, Mr. Chairman.

Mr. POAGE. Mr. English.

Mr. ENGLISH. I notice that Mr. Davis, in his statement from the National Association of Wheat Growers, pointed out that he felt that the subclass Yellow Hard winter wheat should be eliminated altogether. This is a point that I touched on during the first day of testimony and took up with Department officials.

I would like to get some comment on this. I know that Mr. Frazer touched on this. Could you comment with regard to some modification at least, if not the total elimination, of the subclass of Yellow Hard winter wheat in view of the fact, that of all the tests—particularly in Oklahoma and some of the surrounding States where we get into leaks of wheat due to excessive rainfall—there has been no loss of quality according to the tests; I would like some discussion from you gentlemen on this.

Mr. FRAZIER. I brought it up, Mr. English, because the testimony of a number of gentlemen here and over before the subcommittee has brought out that bake tests and similar laboratory work which has been done on this wheat in your area discloses no loss of quality, in the case of that wheat that is often designated Yellow Hard. It is a buying device. It is a neat little trick in case we have a big crop. Some of those farmers are taking a severe discount and the wheat has been quite acceptable to the millers. It is good quality wheat.

We just think it has been used to the disadvantage of the producers and should be eliminated.

I would note also that one of the Department witnesses before the Senate committee last week agreed that it was a problem. Unfortunately, he speculated that it might take 2 years to consider it. That is not very encouraging.

Mr. ENGLISH. That is the reason I wanted to bring it up here, so that maybe we could get to it a little sooner.

Mr. FRAZIER. I should think so.

Mr. BROOKS. Some of our Members in Oklahoma and Texas are confronted with a real problem. If the crop came in with a higher percent of yellow than anybody anticipated, whether it was due to lower doses of fertilizer or when the rains came, nobody is quite certain.

But the standards are there. It is true that certain millers, if they are putting out crackers and biscuits, will use it. It is also true that the flour millers will blend it in with their mixes when they are selling to bakers.

But where the problem is, is that this year there has been a lot of wheat contracted for on the basis of No. 2 or 3 'hard winter' which requires 45 percent dark hard vitreous kernels, and these fellows have got stuff in port positions or they have bought it intending to use it

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to meet their contracts. They have tried in one way or another to get those contracts varied or changed. I do not think they have had much success.

It is a real problem this year. We made a request to the Department that they review it at least, but we are aware of the fact that for a number of reasons the statute now says that there should be a year.

I would not like to see a decision made that every time a crop character changes, that right off you have to get a change in grade, because I am not in favor of having grades based on a fair averge quality each year.

Mr. ENGLISH. Is it not true that the change from 25 percent to 45 percent came in 1957? From testimony we heard the other day from the Department, I do not believe there was adequate explanation given even though mention was made as to why the change occurred. Is it not also true that, as far as many of our foreign buyers are concerned, they are still buying on the basis of that 25 percent and not on the 45 percent?

Mr. BROOKS. If they are, that is fine. I do not know whether 25 percent of that crop down there will come in this winter.

Mr. ENGLISH. I can certainly understand it as far as difficulties are concerned. While I would like to see the "yellow hard" subclass totally eliminated, it seems to me we can go so far as to reduce it back to 25 percent which we had in 1957. Would you find objection to that?

Mr. BROOKS. I do not know why it was changed in 1957. I had forgotten about it.

Mr. ENGLISH. The Department has too.

Mr. BROOKS. We have requested that they review it. We do not say "do it" but review it.

Mr. BELL. I think it should be reviewed, and if there is a deterioration of quality then it should be worked out.

Mr. POAGE. I recognize Mr. Baldus.

Mr. BALDUS. I am interested in the moisture thing. You are talking about the percents of the amounts of tonnage which represents quite a lot.

For No. 1 and No. 2 wheat and corn, what is the standard moisture now?

Mr. LINCOLN. No. 1 is 14 percent, No. 2 corn the limit is 15.5 percent.

Mr. BALDUS. And wheat?

Mr. LINCOLN. Wheat has no numerical factor. Anything over 13½ percent grades "tough" which is a special grade and it is usually a discount factor.

But No. 1 wheat does not have a moisture factor as far as grading is concerned.

Mr. BALDUS. Then, when you are dealing with No. 1 or No. 2 corn and you get it down to that moisture or below, that is it. That is, that is the posted price that day as considered. Normally you do not get much below 14 percent, but it does sometimes get overdried and get down below that. But there is not a normal compensation factor when it does get below.

It will tend to pick up moisture from atmospheric conditions up to that rather quickly if it is below that, is that correct?

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Mr. LINCOLN. Yes.

Mr. BALDUS. Let us say that a person had 10 percent moisture which was accurate. If it kicked up 1 percent then you would really have more tons than you had before?

Mr. LINCOLN. That is correct.

Mr. BALDUS. So, it is to the benefit.

On the other hand, if you had a system which accurately compensated for that, then you would compensate out the dockage of 1 percent from 10 percent, and the amount of the new tonnage less the 1 percent would accurately reflect the amount that was there before.

Mr. LINCOLN. Yes.

Mr. BALDUS. If, through handling, you lost a percent somewhere along the line, then you could pick that up.

That is done presently above the 15 percent mark?

Mr. LINCOLN. Yes, 15.5 percent.

Mr. BALDUS. On No. 2, let us say?

Mr. LINCOLN. Yes.

Mr. BALDUS. But it is not done below that?

Mr. LINCOLN. That is correct.

UNIDENTIFIED WITNESS. The discount usually starts at the 15.5 percent.

Mr. BALDUS. There seems, then, to be almost an incentive to have it up to 15.5 percent. How much corn is handled at No. 1 or graded at No. 1? Is there any?

Mr. BROOKS. Very little, if any.

Mr. FRAZIER. There is a lot of corn that could make No. 1 but seldom does at a country point.

Mr. BROOKS. It could after it is cleaned.

Mr. BALDUS. But I have seen some farm-delivered corn which looked like it had been cleaned, but it is very seldom that you get No. 2.

Am I justified in saying that this moisture thing is quite an important factor, both in fairness to everyone concerned; but also is works as a disincentive to shipping extra weight and other tolerances that are not necessary. It is an incentive for quality.

Mr. FRAZIER. If I understand the thrust of your question, then I think it is true that people in the trade believe that our system is such that we really do not have a premium offered for the main who brings in clean, dried grain. For example, a man could have high quality corn and bring in 10,000 or 15,000 bushels. He is probably not going to get a premium even though it will run 12 moisture and No. 1 on the rest of the factors.

If he is a good talker then he might get a grade No. 1 on it, but generally he would just get No. 2 and that price.

Mr. BALDUS. He would be fairly satisfied?

Mr. FRAZIER. He should not be satisfied, but he cannot do anything about it.

Mr. BELL. Under the present system there is an incentive for the farmer to get as much foreign material and as much moisture in there as he can up to a limit because he does not get any premium if he brings it in clean with less moisture.

Weather conditions might dictate that his soybeans are going to be below that tolerance, because it is so dry that the moisture gets out of it.

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Also, he runs into a problem where, if the grain is dry, it will shatter, then you will get foreign material from that shattering.

So there are quite a number of factors.

Mr. BALDUS. So that turns out to be a disincentive. Then there is a disincentive to have top quality?

Mr. BELL. If it goes too far.

Mr. BALDUS. I am not as acquainted with wheat. I know that corn will pick up moisture from atmospheric conditions. Does wheat do the same thing?

You say it is not used in grading, but it seems to me as a grain it would tend to pick up moisture and would be reflected in weights.

Mr. BELL. There will be some pickup in moisture, yes.

Mr. BALDUS. Is it minimal so it is not considered? Is it less than 1 percent from harvest to eventual use?

Mr. BELL. It would depend on the type of storage.

Mr. FRAZIER. Some of us have had a good deal of experience in storage. We found that if you are rolling corn or wheat out of a bin today while it is raining to load it, you are going to town and unloading—if you roll it over two or three times—then you pick up 1 or 2 percent moisture. If you turn the fans on in the quonset and pump this kind of air through for 24 or 48 hours, then you gain a couple of points very quickly.

Mr. BALDUS. I am familiar with that with corn. Does wheat respond the same way?

Mr. FRAZIER. Not as fast, but the same thing can occur.

Mr. BROOKS. With wheat the thing will occur. If wheat is stored for any period of time in Houston and New Orleans it will pick up weight. It will pick up weight probably in an ocean voyage unless you get a lot of fans going. I am sure it picks up weight in a lot of other unfortunate situations, for example if you weigh anchor outside of India and so on.

Mr. BALDUS. This is despite the fact that everyone seems to be satisfied with the way wheat is handled relative to moisture content. However, there may be a variance there; is that correct, Mr. Brooks.

Mr. BROOKS. Yes.

Mr. POAGE. Thank you. Mr. Bedell.

Mr. BEDELL. Mr. Stoffel, in your testimony you said, "The receipt or ticket shall be immediately available to the buyer and seller of the grain as part of the present regulations, that is, the regulations that have been proposed." You say that it is an impossible achievement and you therefore object to it. Would you elaborate upon why you made that statement, what is impossible about it?

Mr. STOFFEL. Any grain broker, buyer, or seller gets it usually within 24 or 48 hours, but in some cases it might work a hardship and could be of no particular consequence.

As far as the integrity——

Mr. BEDELL. You say that it would generally be impossible to do, that is, to make it immediately available. What is your reasoning there?

Mr. STROFFEL. When we say "immediately available" I take it to mean immediately. This weighing is done in an elevator which may be 10 miles from the office. Ordinarily these things do not come in until the end of the day. That may be a bad choice of words.

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Mr. BEDELL. If the legislation were worded in such a matter that it said that the printed slip would be made immediately available to any representative of the buyer or seller who was present at that time, or would be made available to the person as early as possible, then would that remove the concern that you have?

Mr. STOFFEL. Yes. This is what is going on now.

Mr. BEDELL. You also say that it would be impracticable if this bill would pass and the effective date would be 180 days from the date of enactment. I presume that is because of the time required to purchase the equipment you need for this.

Would you recommend that the legislation be changed to say "or at such time as might be necessarily required to obtain said equipment."?

Mr. STOFFEL. That would be vague in itself; 180 days would be bad for the reason that everybody would suddenly begin making these recording devices. They cause us more trouble than the manually operated printing devices.

A lot of them would probably not do the job because everybody would be making them. Too many manufacturers nowadays are making equipment of this type, and it might also be a problem to get it in in that length of time.

Mr. BEDELL. What will we need in the legislation, or what would be needed in the rulings to be sure that the equipment would be satisfactory? You indicate that some is satisfactory and some is not. Is there not a Bureau of Weights and Standards which requires certain specifications?

Mr. STOFFEL. In my own case I state this. The statement should go out for the reason that——

Mr. BEDELL. That is not my question. Is there anyone in the Government now who requires that that machinery reaches certain requirements. As I understand it, weighing equipment is subject to Government regulations. Would the printout equipment be subject to the same regulations?

Mr. STOFFEL. It has already been taken care of.

Mr. BEDELL. I understand that, but that is not my question.

Is there any governmental agency or any bureau which would check the printing equipment to be sure that it did meet needed requirements so that it would do its job properly?

Mr. STOFFEL. I do not know.

Mr. BEDELL. Is there such a requirement with regard to weighing?

Mr. STOFFEL. Yes, the State tests the trucks.

Mr. BEDELL. Would the printout equipment come under those same regulations?

Mr. CARBAUGH. All weighing measures, yes.

Mr. STOFFEL. Yes.

Mr. BEDELL. Do we know how long a period of time for a transfer would be required? Do we have any information on that?

Mr. STOFFEL. Could you repeat that?

Mr. BEDELL. I understand that one of your objections is that the 180 days is not a reasonable time to make the changeover. How would we find out what is reasonable, or how the legislation could be made reasonable?

Mr. STOFFEL. That would be debatable in any case. That would be a wild guess on the part of anyone, because nobody knows how many

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people would be making the weighing and printing devices. We do not even know how many are making them now. But to get it installed could require technicians and it could take quite a while.

Mr. BEDELL. I have no further questions.

Mr. POAGE. Mr. Hightower.

Mr. HIGHTOWER. Mr. Frazier, I am not sure that I understand your testimony.

Does your association favor the present private system of inspection or do you favor replacing that with a Federal system?

Mr. FRAZIER. We favor phasing out the private grading through the license arrangement. We would be satisfied with either an all-Federal service or, I think perhaps more desirable, a Federal-State service because there are some States now that have pretty good quality grading services through State personnel.

Mr. HIGHTOWER. What do you mean by "phaseout"?

Mr. FRAZIER. Well, the provisions in H.R. 8764, for example, currently authorize the Department to bypass some of the Civil Service redtape and offer employment to those licensed graders who are now working in private agencies who are of good character and capable. Tests may be given and they can be employed quickly.

There is also provision in this bill to permit the Department to pick up and pay for that equipment which is in those business establishments, if it is workable and of good quality. I think we could work it over 6 to 9 months to get the new system underway.

Mr. HIGHTOWER. You do favor that?

Mr. FRAZIER. Yes.

Mr. HIGHTOWER. Do you believe that the present system reflects a conflict of interest between inspection and the industry?

Mr. FRAZIER. Yes.

I think further investigations which are now underway around the country, through the GAO and otherwise, will disclose this to the committee in due course.

Mr. HIGHTOWER. Mr. Bell, what is the position of the American Farm Bureau?

Mr. BELL. We feel that we should wait for the FBI, the USDA, and the GAO to get their reports in and not speculate.

We specifically favor a tightening up of the present system which is a combination of Federal, State, and private.

Mr. HIGHTOWER. Thank you, that is all I have, Mr. Chairman.

Mr. POAGE. Mr. Harkin.

Mr. HARKIN. I would like to ask Mr. Brooks one question. I am sorry I was not here for your testimony.

As I understand it, you are opposed to sections 7 and 8 of H.R. 8764 which is the registration requirements. Could you elaborate on that?

Mr. BROOKS. I had a long statement and I am not sure whether I touched on that.

It is a fact that most grain buyers today in the country, or at terminals, are operating on some State licensing situation. This is particularly true of the individual dealing directly with farmers. In California I am pretty sure that there is a strict registration to protect the interest of farmers as they do business with their first sellers. They have licensing procedures in Minnesota, I believe. I am not familiar

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with all of them, but most States have something covering the very area, at least, that this seems to cover. It is very broad. That is, the bill is.

So you are preempting a State service in many instances which is working well.

Second, I just understand that you may have to do it if you are going to fund it through these people who hold certificates or registrats or whatever you want to call it, that is if you are going to fund the service through them on the basis of the volume of business they do. Maybe this is the way you have the economic handle for charging them something. You can give estimates as to what they are supposed to do.

I did not comment at all on another section of the Department's proposal where they would have books, records, and accounts of every single transaction and operation which went through an elevator for a period of 5 years. This seems to me is a burdensome kind of thing and not unlike some of the burdensome aspects of sections 7 and 8.

Mr. HARKIN. Does anybody else have any feelings about the registration proposal in sections 7 and 8 of the Department's bill?

Would it not make for better credibility and responsibility?

Mr. BROOKS. I have been connected with this industry perhaps for too long. This is an industry that conducted its business on trust and confidence and not suspicion. Business is done on the telephone. It is done orally subject to a written confirmation later which is a slip of paper. This is the way it has been done.

This registration thing somehow or other seems useless. I say maybe I am unduly prejudiced, but this is the way business is done.

Mr. CARBAUGH. Under our grade handlers law, we require records for 2 years. I am sure there must be similar laws in other States although I do not have that information.

Mr. HARKIN. That may be one of the problems. There are diverse listings.

Mr. BROOKS. There is a lot that goes on in the States and at the Federal level. People do not think what goes on in these States.

These are the things why I would urge that as you come up with a final product, and before you come up with it, that it should have more public hearings.

On the conflict of interest, I may enter this aside, if I may. I was spending a vacation in New England and was reading a Boston paper. Some years ago, it develops, that the legislature up there with zeal to reform things, passed a conflict of interest statute of sorts and they outlawed an appearance of conflict of interest. Now this past summer they went through the torture of repealing that provision.

There is the apparent appearance, and it is not reality, and it proved to be so unworkable in that particular jurisdiction.

Mr. HARKIN. The only observation I have on registration is that it would provide a readily available listing of people who are in the industry. You would know who owns his trucks, and you would know who all the people are, and how they are involved, and who they are responsible and accountable to.

If there are violations, then we would know right away who was responsible.

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Mr. BROOKS. This gets into a suggestion that I made in the statement. Barges and trucks are not regulated. Perhaps this committee, in an independent study, had better take a look at the so-called agricultural exemption. Maybe it is time that they should be regulated. I am not suggesting it, but I am suggesting that when you get into registration, when you get into weighing those trucks and barges, then you are going a long way in the direction with all of a sudden finding yourself with a regulated industry where now trucks and barges are not regulated.

Mr. FRAZIER. Our interest in the registration section of H.R. 8764 is rather simple. In the first place it is an easy registration. It only calls for the identification of the ownership, the officers and the places in which they are doing business.

It relates to both trucking and bargeing, but there is even a little more involved.

In actual practice we find that the ASC naturally has a listing of warehouses with whom they do business. But with the decline in stocks held by the Government, there are a substantial number of houses now that may not necessarily sign up for a uniform grain storage agreement, and by the same token the Federal warehouse people are interested only in those houses that are federally licensed.

The Grain Grading Service may have substantial concern about loading, slugging grain, or one thing and another on both barges and railroad cars, and they might find it quite difficult actually to find out who owns the grain and to whom they may look to be responsible in the case of some of those grain shipments.

I think this is a worthwhile purpose and it is relatively inexpensive for the trade.

Mr. POAGE. I believe the time has expired.

Are there any other members who want to ask questions?

If not, are there any of our visitors here who have not had an opportunity to make statements and who want to do so?

If not, this will conclude the hearings.

We appreciate the attendance of all of you. This has been a good series of hearings. We appreciate the cooperation of all those who have made the hearings possible.

The committee stands in adjournment subject to the call of the Chair.

[Whereupon, at 12 noon, the committee adjourned.]

[The additional material submitted to the committee follows:]

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STATE OF
WASHINGTON
DANIEL J. EVANS
GOVERNOR

DEPARTMENT OF
AGRICULTURE
STEWART BLEDSOE
DIRECTOR

OLYMPIA

October 3, 1975

Honorable Thomas S. Foley
Member of Congress
House of Representatives
Washington, D.C. 20515

Dear Mr. Foley:

RE: Proposed Changes in the U.S. Grain Standards Act.

I have reviewed your HR 9467 and the statement by Richard Feltner of USDA supporting this legislation. Implementation of this bill, with costs to be recovered principally from user fees, could seriously interfere with our present grain inspection system in the Pacific Northwest. In addition to the grain inspection required under the U.S. Grain Standards Act, our department provides permissive services to the grain industry by analyzing over 65,000 submitted samples per year and by the inspection of official lot inspection samples on trucks, railroad cars, and barges unloaded at terminal elevators. These latter inspection services, as required by state law, plus our grain weighing program are vital to the welfare of the total grain industry including the producer, the public warehouseman, merchandizer, exporting company, and flour mill. We are justifiably fearful that a significant increase in fees, resulting from the proposed supervision costs, will result in discouraging the use of these services which are a benefit to the total industry. We are not only concerned about the reduced use of vital services, but that the increased cost of grain inspection will result in smaller returns to the farmer.

The cost of primary inspection of grain is now borne by the industry. Industry pays the total cost of our services of sampling, weighing, and inspection. Federal supervision to unify standards throughout the United States is a benefit to the total economy and to the general public. We continue to believe, as we did in testimony in 1966, that this national effort, limited strictly to supervision, was justifiably chargeable to the general public welfare and general funds.

In addition to the benefit to our national economy and balance of trade, resulting from uniform national standards, the Food & Drug Administration is required to maintain surveillance to remove from food channels, grain unfit for human consumption. FDA's program is financed completely by general fund appropriations of the federal government. Currently, in our state, as in some other states, grain inspectors--funded entirely by user fees--uncover the shipments of grain which are unfit for human consumption. The state grain inspectors then notify their food division counterparts, who place embargoes on the shipments and see that they are disposed of properly, whether for feed, industrial use, or destruction. This consumer protection program benefits from our state grain inspection branch which is supported by user fees.

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We believe in the present concept of federal supervision and agree that there is need for some reorganization and possibly an increase in staffing of the federal Grain Division in certain areas where there have been problems. We specifically refer to certain geographical areas and to private agencies versus governmental agencies involved in grain inspection. It would seem that good management of the manpower of federal supervision to take care of the problem spots should not require a doubling of federal supervision at export inspection points as proposed by USDA. We are fearful that this proposed program, fully implemented, may seriously detract from what has proved to be a very workable service and regulatory program as implemented in the Pacific Northwest. We question placing additional costs to our producers because of criminal acts uncovered in a few private inspection agencies located in other sections of the United States.

While your bill does not involve a change in weighing responsibilities, I note that some other bills do propose a change in weighing programs. We have competent, well-trained weighers and we provide an efficient program. In the administration of our weighing responsibility we have a cooperative agreement with our Weights & Measures Division which provides frequent inspection of each scale for accuracy and requires continuous maintenance of the weighing facilities.

The increase in fees, due to the proposed assessment of user fees for supervision, could result in strong pressures from our grain industry to change the requirements for inspection now covered by our Washington State Warehouse Act. We believe this law, which requires complete inspection services at each of our export terminals for incoming grain, is of distinct public benefit insuring no unloading and mingling of grain unfit for human consumption.

In summary, we are concerned about the possibility of increased cost for inspection being assessed against our producers. We believe a reasonable increase in supervision at problem spots is justified. We hope to maintain the status quo here in the Pacific Northwest with our federal-state grain inspection program....one in which all primary inspections are conducted by state grain inspectors, licensed by USDA, with federal supervision and with the applicant's right-of-appeal. We are convinced that the modest cost for supervision under the current program is a justified general fund expenditure.

Please don't hesitate to call if you have any questions regarding our Washington grain inspection program or our concern regarding the proposed amendments.

Sincerely,

Errett Deck
Deputy Director

ED:e
cc: Gene Moos
Merrill Sather, Pacific NW Grain Dealers
Scott Hanson, Wa. Wheat Commission
Larry Chadwick, Wa. Assoc. of Wheat Growers
Dave Hansen, Export Assoc.
D. R. Galliart, USDA

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STATEMENT

OF THE

NEW ORLEANS BOARD OF TRADE, LTD.

The New Orleans Board of Trade, Ltd., is a non-profit private corporation, organized in 1880 to promote commerce and trade through the Port of New Orleans and to develop and furnish services to facilitate its growth.

The Board of Trade started a Grain Inspection Department on April 7, 1899, and its grain grades were first recognized worldwide early in the present century.

Since the passage of the Grain Standards Act in 1916, the New Orleans Board of Trade has been an official U. S. Department of Agriculture inspection agency.

No officer, board member, or stockholder member of the New Orleans Board of Trade receives a salary, except the full-time Administrative Manager/ Secretary-Treasurer. One other board member, a retired executive qualified as a Maritime Commission practitioner is paid a fee as a special consultant to the Board. Neither is connected with the grain trade. No member of the New Orleans Board of Trade, Ltd., is paid a dividend, and the members stock in the Board of Trade does not appreciate in value. We have a paid staff of three management personnel, 5 clerical employees, and the 36 grain inspection and weighing supervisory and staff members, who serve at two export grain elevators.

Grain never has been bought and sold as a function of our organization, and our services to the grain industry are limited to operating the inspection service at two grain elevators Continental and the Public Grain Elevator both located within the territorial limits of the Port of New Orleans. Six other export elevators located along a stretch of nearly 175 miles of the Mississippi River, have been erroneously designated in remarks for the record and in many news reports as being part of the "Port of New Orleans," yet not one of these other six elevators is located within the port limits.

We do not favor legislation that would eliminate all presently constituted official inspection agencies We do favor reforms in the present system to insure integrity and high standards of marketing grain, both domestic and export. A recommended system envisions provision of a revitalized adequately staffed check-audit type of operation in classifying and weighing of grain which would be superior to a proposed single all-federal or federal-state inspection agency checked only by itself. Several Congressional investigations of federal agencies at present and in the recent past, indicate that governmental units have no monopoly on either integrity or propriety, or the lack thereof.

As a civic oriented, non-profit organization, we entered into a period of intense self-examination during 1973, considerably before there was evidence about the existence of widespread wrongdoing in the grain trade. We did this because we recognized that there existed opportunity for undesirable relations to develop between employees of the New Orleans Board of Trade and organizations for whom services were performed.

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Meetings were held with inspectors and samplers from both elevators to discuss operations and to emphasize the absolute necessity of complete objectivity and adherence to proper prescribed procedures in sampling, grading, and weighing. Employees were instructed to "go by the book 100 percent."

Instructions were given and emphasized that no gifts, entertainment, or favors of any kind were to be accepted at any time.

It was felt that stricter supervision by management was essential. Accordingly, the chief administrative officer in charge of the grain operation was instructed to concentrate on adherence to proper practices and to submit a written report on every supervisory visit. The employee responsible did not perform to the satisfaction of the Executive Committee. He was replaced with a new full-time, well-qualified manager who reports directly to the President.

With the objective of improving operating practices and of learning of shortcomings we met with heads of the New Orleans office of the USDA and solicited their criticisms and suggestions.

Other measures which we adopted in recent months, include:

Rotation of not fewer than 10 men in weekly two-man teams on shiphold inspections. Men in the two-man teams are also rotated so that the same pairs do not work regularly together.

(Grain inspectors have always been rotated between day and night shifts.) We are beginning rotation of inspectors between our two elevators, including our inspectors-in-charge.

Samplers and weighmasters are now rotated between day and night shifts, and regular rotation between elevators is being implemented for samplers and weighmasters.

We have altered the entrances to our two grain laboratories so that only official and USDA personnel have free access. All others must seek permission of the inspector-in-charge to enter and are admitted only for strictly legitimate purposes. This inhibits possible attempts to influence inspection personnel.

We have instituted checking procedures to make certain that all railroad cars and barges are more carefully checked for conditions and are re-sealed after sampling, even though a car, when sampled, may be the next in line at the elevator unloading pit.

We have suspended some of our employees during the past year for breech of discipline or for inadequate performance.

In August 1974, when indictments were returned against official inspection agency personnel assigned to shiphold inspections, two of our sampler-shiphold inspectors were among those accused of accepting bribes from steamship agencies and ship cleaning companies. We immediately suspended them, and they were later discharged.

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Later in the investigation, one of our grain inspectors was indicted on a charge that has not yet come to trial. He, too, was suspended.

We are doing everything in our power to maintain the standards of the Grain Act, but the Act itself has some shortcomings. Major changes in the Grain Standards Act and regulations were made in 968 and there have been revisions since then but the need exists for more In 1968 a forward step was taken when the licensing of samplers employed by official inspection agencies was required for the first time by the U S Department of Agriculture. However at that same time, regulations were changed to make the inspection of grain by official inspection agencies optional instead of mandatory in domestic markets. This was a step backward.

Several months after the indictments of the shiphold inspectors in New Orleans and Houston in 1974, the USDA instituted licensing of shiphold inspectors. The testing of official inspection personnel for this purpose has been largely limited to a written examination without practical tests aboard ships. Field tests should be required of all samplers and grain inspectors licensed for this function.

The Transportation and Warehouse Division of the USDA is responsible for the regulation of grain warehouses, including export elevators. It also licenses grain weighers under the U. S. Warehouse Act. The same license is required for weighers employed by elevators as is required for the weighing supervisors of official inspec ion agencies. The licensing of weighers requires applications, recommendations from warehouse managers, and other personal references. To the best of our knowledge, there is no test, either written or practical of a man ability to weigh grain. In justice to the Warehouse Division it is undermanned As an example, the Warehouse Division has supervised the eight export elevators on the lower Mississippi River, which load almost 40 percent of the grain leaving this country without having a local grain office. Supervisors come from the Memphis office, and visits to the elevators have been limited to those required to inspect elevator stocks and receipts.

Our grain inspectors are regarded as management personnel. They have been repeatedly assured that they are backed up by management 100 percent in making grading decisions. They know that they are no and will not be, subjected to central office pressure to accommodate any elevator or grain merchant. Our nine inspectors average 16 years as icensed grain inspectors and know the business thoroughly To the best of our knowledge, no New Orleans Board of Trade grain inspector has ever been accused of intentionally misgrading grain going aboard any vessel.

We recognize the necessity of maintaining the reputation of the U. S. grain grade certificate. It is the basis for the immediate payment by the foreign buyer for U. S. grain loaded aboard a ship at a U. S. port. This system instantly places foreign funds into American hands, from our ports all the way back to the farmer.

There are additional steps which should be instituted to guarantee integrity in the classification and weighing of American grain in both domestic and overseas markets.

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They include:

1. Revision of the grain grading factors to provide qualitative improvements to satisfy legitimate foreign complaints. (Incidentally, as an official inspection agency, we have never been given a list of complaints of foreign buyers which we could use as a guideline in either making recommendations for change or in improving our own performance. We have been grading grain going aboard 450 to 550 ships a year, and we were advised only recently of a complaint in November of 1972 of one case of supposed misgrading by one of our inspectors.)

2. Review of shiploading techniques at export elevators to ascertain that the physical handling systems do not adversely affect quality after the grain has left the inspection sampling point.

3. Institute new procedures to help reduce the possibility of political influence in the designation of private inspection agencies.

4. Require mandatory official inspection of grain moving in domestic markets as well as in export.

5. Tighten examination procedures for licensing of official inspection personnel. Institute the same licensing procedures for federal supervisory personnel.

6. Increase the USDA supervisory and appeal staff as necessary. If proper steps are taken to improve official inspection agencies it would not be necessary to build a large federal staff. As a matter of fact, if the Congress should legislate an all-federal inspection system, the only way it could be activated within a short time would be for the federal government to hire most of the 800 grain inspectors and many of the 3,000 samplers now working for official inspection agencies. If an all-federal or federal-state inspection system were created and most of the 800 present private agency inspectors were not hired there would be no immediate way for the federal government to create a technically competent staff by means of a rapid training program. A chaotic condition would apply in the grading of grain for some years, adversely affecting turn-around time of vessels and driving up shipping costs.

7. Finally, increase the severity of penalties for violations of the Grain Standards Act.

We also offer five recommendations to safeguard integrity in weighing grain. These are:

1. Assign the <u>same</u> division of the USDA responsibility for supervising both inspection <u>and</u> weighing of grain.

2. Require all weighing of grain at terminal and export elevators be performed by official personnel instead of elevator personnel.

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(Under the present system, licensed elevator weighers do the actual weighing and keep primary scale records. Official inspection agency weighing personnel only supervise weighing and issue official certificates.)

3. Require the USDA, which oversees the program, to test weighers for skill and knowledge and to conduct frequent, unscheduled inspections to assure honest and competent performance.

4. Require all elevator scales to be tested by a certified independent and technically competent agency at least once every three months.

5. Require elevators to file with official inspection agencies and federal supervisors drawing layouts, which set forth accurately and completely the routing of all grain through the "house." Require safeguard lock-out systems placed on grain legs, turnheads, or other mechanisms which might be used to divert grain, once weighed, from its legitimate destination.

6. Tighten restrictions against entry by unauthorized personnel in areas where testing and classification of grain is performed.

These recommendations for revisions in the nation's grain inspection and weighing systems should safeguard the authenticity and accuracy of the certificates issued by the official inspection agencies. The organizations and legal framework exist. They include a built-in system of checks and balances. If the proper reforms are inaugurated, the existing system should work more effectively than an all-federal system or a federal-state system, without building up the federal bureaucracy.

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THE SAINT JOSEPH GRAIN EXCHANGE
OF SAINT JOSEPH, MISSOURI

September 22, 1975

HR 8764
HR 8347
HR 7442

Committee on Agriculture
U. S. House of Representatives
Washington, D. C.

Gentlemen,

Apparently the above referenced bills and perhaps others like them have been hastily drawn in the heat of recent scandals which occurred in the grain industry in the New Orleans area. It is most regrettable that such criminal acts as the issuance of false grain grade and weight certificates took place. It is commendable that those who were guilty will very likely feel the full wrath of the law and if they do it will be with our blessing. Unfortunately such events as these often induce hasty over-reaction that causes far more damage than good.

We are quite concerned that some Congressmen seem to think that a 60 million dollar federal system should immediately be imposed and that such an imposition will solve all problems. Other Senators and Congressmen look toward a 40 million dollar federal-state system. We sincerely believe that ill-advised and uninformed people are going to make a very serious mistake if they vote such legislation as this into law.

First, gentlemen, do we really have a problem? Yes, I think we have, however the size of that problem has been inflated far out of proportion. Bear in mind that thousands of grain elevators all over the country are involved daily handling millions and millions of bushels of grain, yet it has only been in an isolated area on the Gulf coast that trouble has appeared. Criminals can and do operate everywhere yet if a Federal judge is convicted of taking a bribe, no one proposes that the entire court system of the country be abolished or that <u>all</u> judges be replaced with <u>new</u> judges.

It seems that everytime something disagreeable happens, people jump screaming to their feet shouting "there oughta be a law!" and so we have new laws on top of old laws that are not strictly enforced. It is our contention that we already have enough federal and state supervision if it is applied properly. Unfortunately in recent years the Federal Grain Inspection Service of the U.S.D.A. seems to have developed a policy of cutting back on service regardless of the protests of the public and the grain trade. Here at St. Joseph, Missouri, after some 50 years and in spite of public protest,

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the Federal Supervision office was closed. In Missouri, the initial grain inspection is made by the State subject to Federal supervision and appeal and we would like to keep it that way.

In the matter of weights. All Federally licensed grain elevators have federally licensed weighmasters; all books and inventory records are subject to periodic inspection by Federal examiners. In St. Joseph, Missouri, the six major grain companies are federally licensed and the other three companies are basically grain processors. The weighmasters of all of these companies are all also licensed, bonded, and supervised by the Saint Joseph Grain Exchange. Twice each year the State of Missouri inspects and tests all scales and the Western Weighing and Inspection Bureau of the railroads supervises the supervisors of the weighmasters. St Joseph is not alone as a weight supervising market. We have been supervising weights for over 60 years and to my knowledge have never had a serious complaint. We do not inspect grain as do the Omaha, Lincoln, Hastings, Des Moines, Enid and Minneapolis grain markets.

Since we already have federal, state, and railroad weight supervision as well as being a supervising agency ourselves, you can understand why we question the need for yet another layer of expensive federal bureaucrats supervising the four supervising agencies that are already supervising the bonded weighmaster in his daily work.

One questions just where the Federal government can acquire the experienced personnel to fill the ranks of the proposed new federal agency. The only people with experience are already working in the field. Do you think the act of putting a man on the Federal payroll gives him the necessary experience and guarantees that he will remain honest? News out of Washington over the past couple of years certainly convinces one that that is not necessarily the case. What will happen will be the inevitable empire building and deterioration of service such as we see in the postal department. You can be sure that the private sector holds costs to the minimum whereas government employees feel no such compulsion. As costs go up, this burden is passed on to eventually settle on the shoulders of the farmer. You may be interested to learn that, in spite of runaway inflation, we have not increased out weighing charge since February 1, 1971, and we do not anticipate any increase in the near future.

Now you may ask just why the St. Joseph Grain Exchange is so interested in maintaining its weight supervision authority. Frankly, gentlemen, if we no longer are authorized to supervise weights, we liquidate and go out of business. Weight supervision pays the cost of providing our service not only to

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our members but to this whole midwestern agricultural area. The St. Joseph Grain Exchange, since 1927, has daily provided a minimum of three radio broadcasts per day from our trading floor bringing immediate grain market prices and information to thousands of farmers and country grain dealers. This information is vital to these people and if it is no longer available from the private sector, you will be forced to provide this service at federal expense as is done by the U. S. Livestock Reporting Service. St. Joseph, of course, is not the only cash grain market that would be closed down to the detriment of the agricultural communities.

Before jumping on your horses and riding off in all directions, it would be well that legislators in Washington reflect on repercussions that can result from hasty action. Please consider well what we say here. There are thousands of honest, hardworking people involved in grain inspection and weighing. Just because a half dozen skunks were caught in the henhouse, don't panic and condemn the whole system.

Respectfully submitted,

W. T. Drannan
Executive Secretary
SAINT JOSEPH GRAIN EXCHANGE
St. Joseph, Missouri 64501

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